

Delegated Report

Planning Ref: 24/00371/CONDIT
Applicant: Mr Butterworth
Ward: Newbold Verdon with Desford & Peckleton



Hinckley & Bosworth
Borough Council

**Site: Land to the South of 50 Brascote Lane Newbold Verdon
Leicestershire**

Proposal: Variation of condition 2 (Plans and Elevation) of planning permission 19/00600/FUL. To provide an alternative footprint for the dwelling, improving its buildability and to move plots further into the site to improve access. To reference an alternative set of drawings, submitted as part of this application, enabling alterations to the footprint of the dwellings (7971_250A & 7971_251A) and to move the plots further into the site (7971_150).

Recommendations

- 1.1. **Grant planning permission** subject to the conditions at the end of this report.

Planning Application Description

- 2.1. Application 19/00600/FUL for the 'Erection of two detached dwellings and associated access' was granted approval on 18/12/2019.
- 2.2. This application seeks minor material changes to permission 19/00600/FUL. The specific changes are:
- To provide an alternative footprint for the dwelling,
 - To improving its buildability
 - To move plots further into the site to improve access.
 - To reference an alternative set of drawings, submitted as part of this application enabling alterations to the footprint of the dwellings (7971_250A & 7971_251A) and to move the plots further into the site (7971_150).

Description of the Site and Surrounding Area

- 3.1. The application site is located within the settlement boundary of Newbold Verdon on the entrance to the village on the east side of Brascote Lane. It is roughly rectangular in shape and measures approximately 0.13 hectares. It currently comprises an area of scrub land with an unmade public right of way running south west to north east through the middle of the site between Brascote Lane and Arnold's Crescent. The site has a lower ground level (approx. 0.4 of a metre) than the land to the north.
- 3.2. There is a detached dormer bungalow, bungalow and two storey dwellings to the north of the site. There are two storey detached dwellings and long gardens to the east and two storey semi-detached dwellings and an infill detached bungalow to the west on the opposite side of Brascote Lane. There are designated allotment gardens to the south of the site. The application site is enclosed to the east by a well maintained hedgerow of approximately 1.2 metres in height, to the part north by a 1.8 metre high timber panel fence on retaining concrete gravel boards and to the part west and south by an unmaintained and overgrown hedgerow overhanging a small brook.

3.3. Relevant planning history

19/00600/FUL

- ERECTION OF TWO DETACHED DWELLINGS AND ASSOCIATED ACCESS
- APPROVED
- 18.12.2029

Publicity

- 5.1. Neighbouring properties have been notified of the application. A site notice was posted at the site and the proposed was advertised in the Leicester Mercury.
- 5.2. No representations have been received in response to the neighbour notification.

Consultation

- 6.1. All those consulted on the original full application (19/00600/FUL) have been re-consulted and no objections have been received.

Policy

- 7.1. Core Strategy (2009)
- Policy 7: Key Rural Centres
 - Policy 11: Key Rural centres Stand Alone
 - Policy 19: Green Space and Play Provision
- 7.2. Site Allocations and Development Management Policies (SADMP) DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3 National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)

Appraisal

- 8.1. The principle of development has been approved under application 19/00600/FUL. The key issues are therefore:
- Design and Impact upon the Character of the Area
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Public right of way
 - Infrastructure contributions
 - Other issues

Design and Impact upon the Character of the Area

- 8.2. Policy DM10 the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density,

mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.

- 8.3. The Council's Good Design Guide outlines that development will need to provide high quality design including internal amenity space, minimum garden sizes and separation distances between habitable room windows. The Guide also promotes a healthy, comfortable and safe internal and external environment. It provides guidance on detailed design and is supported in its aims to ensure good design in all development by paragraph 139 of the NPPF which states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF. Policy DM10 is therefore consistent with the NPPF (2023).
- 8.4. The revisions as listed above in paragraph 2.2 are considered to be material but minor in nature and to accord with the requirements of the NPPF, Policy DM10 and the Good Design Guide.

Impact upon Neighbouring Residential Amenity

- 8.5. Policy DM10 of the SADMP states that development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.6. Paragraph 135 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.7. The proposed revisions as outlined above are considered to be material but minor in nature. The proposed dwellings are being moved back approx. 2m further into their plots to improve accessibility to the sites from Brascote Lane. Although this means the proposed dwellings are not as in line with No. 50 to the north or with each other as per the original approval (19/00600/FUL) the current proposal satisfies the 45 degree line taken from the rear of No. 50 to the north and the rear of the dwelling in Plot 1, to the north of Plot 2. It is therefore not considered the proposed would have a detrimental impact on neighbouring amenity. The rear garden proposed for plot 1 and plot 2 would still have sufficient amenity area for any future occupiers. It is therefore considered that the proposal accords with the requirements with regard to the protection of residential amenity for neighbours and with the requirement to provide future occupiers with adequate amenity. The proposal is in accordance with the requirements of Policy DM10 of the SADMP, the Good Design Guide and the NPPF.

Impact upon Highway Safety

- 8.8. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision.

- 8.9. The scheme proposes direct accesses off Brascote Lane and three off-street parking spaces to serve each four bed dwelling (one integral garage and two on driveway hardstanding of 6 metres x 6 metres at the front of each dwelling in accordance with highway design guidance standards. Leicestershire County Council (Highways) has assessed the scheme and raises no objections to the variation, commenting that:

'No objection to the Variation of Condition 2 (Plans and Elevation) attached to 19/00600/FUL.

The LHA are in receipt of application 24/00371/CONDIT submitted in order to vary condition 2 (Plans and Elevation) attached to planning permission 19/00600/FUL.

19/00600/FUL granted permission for the erection of two detached dwellings and associated access.

Condition 2 is replicated below for clarity.

'The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location Plan Drawing No. 100, Topographical Survey Drawing No. 105, Plot 1 Proposed Floor Plans and Elevations Drawing No. 250A and Plot 2 Proposed Floor Plans and Elevations Drawing No. 251 received by the local planning authority on 5 September 2019 and Proposed Site Plan and Street Scene Drawing No. 450 received by the local planning authority on 5 December 2019.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).'

As per the application description the Applicant is seeking the variation of condition 2 (Plans and Elevation) of planning permission 19/00600/FUL. This seeks to provide alternative footprints for the dwellings, improving their buildability and to move plots further into the site to improve access.

The Application seeks to replace approved drawings:

- Plot 1 Proposed Floor Plans and Elevations Drawing No. 250A;*
- Plot 2 Proposed Floor Plans and Elevations Drawing No. 251; and*
- Proposed Site Plan and Street Scene Drawing No. 450.*

with:

- Proposed Floor Plans and Elevations [Plot 1] Drawing No. 7971_250A;*
- Proposed Floor Plans and Elevations [Plot 2] Drawing No. 7971_251A; and*
- Proposed Site Plan Drawing No. 7971_150.*

The LHA have reviewed the submitted documentation and note the garages on both plots one and two no longer comply with Paragraph 3.200 of Part 3 of the Leicestershire Highway Design Guide, a copy of which can be found at <https://resources.leicestershire.gov.uk/lhdg>. This states that in order to be counted towards off-street car parking provision, the internal dimensions for a single garage should be 6m (Length) by 3m (width). Proposed Floor Plans and Elevations [Plot 1] Drawing No 7971_250A and Proposed Floor Plans and Elevations [Plot 2] Drawing No 7971_251A both demonstrate the internal garage dimensions as 5.8m (Length) by 3m (width) and as such cannot be counted towards the off-street car parking provision.

However, the LHA are satisfied there is adequate space to the front of the garages for both plots one and two for the parking of three vehicles in accordance with Paragraph 3.151 (quantum of offstreet car parking spaces) and 3.165 (Car parking space dimensions) of Part 3 of the LHDG, and as such no revisions are requested relating to this matter.

Taking the above into consideration, the LHA would not object to the variation of condition 2 (Plans and Elevation) attached to 19/00600/FUL'.

- 8.10. Therefore the LHA have no objection to the Variation of Condition 2 attached to 19/00600/FUL.
- 8.11. It is considered that the proposed development provides sufficient parking and has an acceptable impact with regard to highway safety subject to compliance with the proposed conditions in accordance with the requirements of the SADMP and the NPPF.

Equality Implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The proposed development is considered to be compliant with relevant national and local policy and guidance as it:
- Is of an appropriate scale and design
 - Would not have a harmful impact upon the character and appearance of the area or this heritage asset
 - Provides sufficient parking and has no adverse impact upon highway safety
 - Would not have a significantly detrimental effect on the amenity of neighbouring residents

- 10.2. Taking national and local planning policies into account, and having regard to all relevant material considerations, it is recommended that planning permission be granted, subject to the imposition of appropriate conditions set out below. Where appropriate the conditions have been varied below to account for the new drawing numbers and details which have already been discharged. Development has commenced on site, therefore this condition has been removed as this is tied to the prior consent in any event.

11. Recommendation

- 11.1 **Grant planning permission** subject to the conditions below.

11.2 Conditions

1. The development hereby permitted shall not be carried out other than in accordance with the following plans and amended plans:

Proposed Floor Plans and Elevations [Plot 1] Drawing No. 7971_250A;

Proposed Floor Plans and Elevations [Plot 2] Drawing No. 7971_251A; and

Proposed Site Plan Drawing No. 7971_150 all received on 17 April 2024.

Reason: To ensure the development is carried out in accordance with the approved details.

3. Development shall take place according to the scheme and timetable for the diversion and treatment of the Public Right of Way through the site as approved under 22/00762/DISCON.

Reason: In the interests of amenity, safety and security of users of the Public Right of Way in accordance with Paragraph 98 of the National Planning Policy Framework (2023).

4. Development shall take place according to the ground levels and finished floor levels as approved under 22/00762/DISCON.

Reason: To ensure that the development has a satisfactory appearance and in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. If during development, contamination is found to be present at the site, no further development shall take place until a scheme for the investigation of all potential land contamination has been submitted in writing to and approved in writing by the Local Planning Authority and which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the first dwelling being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. Notwithstanding the submitted details, prior to the first occupation of Plot 1 hereby permitted, the first floor en-suite window on the north side elevation of Plot 1 facing 50 Brascote Lane shall be non-opening and fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and once so provided shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of the neighbouring dwelling from potential overlooking in accordance with Policy DM10 (criterion a) of the Site Allocations and Development Management Policies Development Plan Document (2016).

8. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Proposed Site Plan Drawing No. 7971_150 received by the local planning authority on 17 April 2024 have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

9. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 43 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent highway footway/verge.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

10. The development hereby permitted shall not be occupied until such time as the integral garages and off street car parking areas have been provided and surfaced with hard bound materials in accordance with Proposed Site Plan Drawing No. 7971_150 received by the local planning authority on 17 April 2024 and Proposed Floor Plans and Elevations [Plot 1] Drawing No. 7971_250A; Proposed Floor Plans and Elevations [Plot 2] Drawing No. 7971_251A received on 17 April 2024. Thereafter the onsite parking provision shall be permanently so maintained at all times thereafter.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally in the interests of highway safety and in accordance with Policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document (2016) Paragraphs 108 and 110 of the National Planning Policy Framework (2023).

11. The use of the garages shall remain at all times for the purpose of parking a motor vehicle and shall not be converted to additional living accommodation, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that adequate off-street parking facilities are available in accordance with Policy DM18 of the Site Allocations and Development Management Policies Development Plan Document (2016).

12. During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as maybe specified in writing by the Local Planning Authority.

Reason: To ensure that the existing trees and hedgerows on the site are retained and protected in accordance with Policies DM6 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

13. Prior to the first occupation of either dwelling hereby permitted, the approved garden boundary fencing shall be constructed in accordance with the details provided on approved Proposed Site Plan Drawing No. 7971_150 received on 17 April 2024. Once so provided, the boundary fencing shall thereafter be permanently retained as such at all times thereafter.

Reason: To protect the amenities and privacy of the future occupiers of the site and the occupiers of neighbouring properties in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Application forms to discharge conditions and further information can be found on the planning portal website www.planningportal.gov.uk
3. In relation to condition 3, the replacement public right of way should be 2 metres in width and surfaced in tarmacadam in accordance with Leicestershire County Council's Guide for Developers and the existing stile removed.
4. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>

5. All proposed off site highway works shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
6. Public Rights of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.
7. The existing Public Right of Way is impracticable to retain on its existing line, therefore a separate application for diversion is required. It should be submitted under the Town and Country Planning Act 1990 to the Local Planning Authority. The applicant is not entitled to carry out any works directly affecting the legal line of a Public Right of Way until a Diversion Order has been confirmed and become operative.
8. If the developer requires a Public Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to networkmanagement@leics.gov.uk at least 12 weeks before the temporary diversion is required.
9. Prior to construction, measures should be taken to ensure that users of the Public Right(s) of Way are not exposed to any elements of danger associated with construction works.
10. Public Rights of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
11. Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
12. No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.
13. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor. If soakaway drainage proves impractical, alternative options such as discharge to ditches should be considered.
14. The access drive, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet. (see Environment Agency guidance on the permeable surfacing of front gardens).

