

Delegated Report

Planning Ref: 23/00835/CONDIT
Applicant: MR ARKADIUSZ KULAKOWSKI
Ward: Ratby Bagworth And Thornton



Hinckley & Bosworth
Borough Council

**Site: Laurel House, 2 Main Street, Bagworth, Coalville,
Leicestershire**

**Proposal: Variation of Condition 1 of planning application 22/00353/REM –
Amendment to change the roof material for all plots and the addition of windows at
first floor level in the side elevation of Plots 6 and 7.**

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. This application seeks to vary Condition 1 (approved plans list) of reserved matters consent 22/00353/REM. Application 22/000353/REM was granted reserved matters consent for the Appearance, Scale and Landscaping for residential development for 7 dwellings following Outline Approval 19/01130/OUT. An application for a change to the roof material of each dwelling was approved under 23.00285.CONDIT. This application seeks an alteration to Plots 6 and 7, specifically the addition of windows at first floor level in the side elevation of the each Plot. The roof material change permitted as part of the previous variation also forms part of this application for clarity purposes and to ensure that all proposed changes are contained under one permission.
- 2.2. Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition previously imposed on a planning permission. Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.
- 2.3. A decision notice describing the new permission should clearly express that it is made under Section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect.
- 2.4. Existing Condition 1 states:

'The development hereby permitted shall only be carried out in accordance with the following details:

Location Plan 2106-PL-001 received 11 April 2022

Proposed Demolition Plan 2106-PL-003 Rev A received 11 April 2022

Proposed Site General Arrangement Plan 2106-PL-004 Rev A received 11 April 2022

Amended Landscape Plan 2106-PL-005 Rev B received 3 August 2022
Proposed Ground Floor Plan 2106-PL-006 Rev A received 11 April 2022
Proposed First Floor Plan 2106-PL-007 Rev A received 11 April 2022
Proposed Roof Plan 2106-PL-008 Rev A received 11 April 2022
Plot 1 Plans and Elevations 2106-PL-201 received 11 April 2022
Plot 2 Plans and Elevations 2106-PL-202 received 11 April 2022
Plot 3 Plans and Elevations 2106-PL-203 received 11 April 2022
Plot 4 Plans and Elevations 2106-PL-204 received 11 April 2022
Plot 5 Plans and Elevations 2106-PL-205 received 11 April 2022
Plot 6 Plans and Elevations 2106-PL-206 received 11 April 2022
Plot 7 Plans and Elevations 2106-PL-207 received 11 April 2022

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD 2016.

- 2.5. The existing approved plans list in Condition 1 needs to be revised in order to allow for a change to the roof material of each dwelling and for the inclusion of windows at first floor level to Plots 6 and 7. Revised drawings have been submitted as part of this application including the following:

- Location Plan 2106-PL-001
- Proposed Site Plan – ground floor plan drawing number 2106-PL-006 Rev B
- Proposed Site Plan – first floor plan drawing number 2106-PL-007 Rev D
- Proposed Roof Plan drawing number 2106-PL-008 Rev A
- Plot 1 Plans and Elevations 2106-PL-201_Rev A
- Plot 2 Plans and Elevations 2106-PL-202_Rev A
- Plot 3 Plans and Elevations 2106-PL-203_Rev A
- Plot 4 Plans and Elevations 2106-PL-204_Rev A
- Plot 5 Plans and Elevations 2106-PL-205_Rev A
- Plot 6 Plans and Elevations 2106-PL-206_Rev C
- Plot 7 Plans and Elevations 2106-PL-207_Rev C

3. Description of the site and surrounding area

- 3.1. The application site consists of land and buildings amounting to approximately 0.4ha including the residential dwelling Laurel House in which the applicant owns and occupies. The former agricultural buildings have, since 1998 been used in connection with the applicants business 'The Silk Forest', the manufacturing of artificial trees and plants. The majority of the site is within the settlement boundary for Bagworth. The site is surrounded by residential properties to the side and front with open countryside to the rear of the site. The site is located within the National Forest.

4.0. Relevant planning history

- 4.1. 19/01130/OUT – Residential development for 7 dwellings (outline – layout and access only) - APPROVED

22/00353/REM - Appearance, Scale and Landscaping for residential development for 7 dwellings following Outline Approval 19/01130/OUT – APPROVED

23/00288/DISCON – Discharge of Conditions 2 and 3 of Reserved Matters Consent 22/00353/REM – APPROVED

23/00285/CONDIT - Variation of Condition 1 of planning application 22/00353/REM. Amendment to roof materials – APPROVED

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents and displaying a site notice.
- 5.2. No comments from third parties/neighbours have been received.

6. Consultation

- 6.1. No objection has been received from the following consultees:
HBBC Environmental Health
LCC Highways
- 6.2. No response received from Bagworth and Thornton Parish Council.

7. Policy

- 7.1. Core Strategy (2009)
 - Policy 7: Key Rural Centres
 - Policy 10: Key Rural Centres within the National Forest
 - Policy 16: Housing Density, Mix and Design
 - Policy 21: National Forest
- 7.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - 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) (2021)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.4. Other relevant guidance
Leicestershire Highway Design Guide (2020)

8. Appraisal

- 8.1. Key Issues
 - Principle of development
 - Design and impact upon the character of the area
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Drainage
 - Other matters

Principle of development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining

applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP).
- 8.4. Since the grant of the reserved matters consent 22/00353/REM there have been no changes in policy nationally or locally but it is to be noted that the replacement Local Plan for Hinckley and Bosworth has been delayed to 2024 and a further Regulation 19 stage is to be carried out. Therefore this document carries little weight at this time.
- 8.5. This variation of condition application seeks an alteration to the roof material from a roof tile to metal cladding on 7 dwellings and the addition of first floor windows in the side elevation of Plots 6 and 7. Therefore the approved plans list (Condition 1) of consent 22/00353/REM needs to be varied.

Design and impact upon the character of the area

- 8.6. Policy DM10(c), (d) and (e) of 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.
- 8.7. Paragraph 134 of the NPPF states 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.
- 8.8. The application site is not located within a Conservation Area and is surrounded by development of varying ages, styles and materials. The approved dwellings are modern and contemporary in appearance and the change to the roof material is considered to be acceptable in this instance and in keeping with the overall design of the scheme.
- 8.9. The provision of first floor windows to Plots 6 and 7 has no significant impact on the design and appearance of the approved dwellings.
- 8.10. Overall the scheme is considered to be acceptable and in compliance with Policy DM10(c), (d) and (e) of the SADMP, the Good Design Guide SPD and the requirements of the NPPF.

Impact upon neighbouring residential amenity

- 8.11. Policy DM10 (a) and (b) of the SADMP states 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.

- 8.12. Paragraph 130 of the revised 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.
- 8.13. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.14. The Environmental Services Team has been consulted on this application and has raised no objections. There have been no objections received from neighbouring properties and a change to a roof material is not considered to have any effect on residential amenity.
- 8.15. The request for windows at first floor level will result in an impact on amenity with respect to overlooking and privacy. The windows are required for fire regulations for two bedrooms at first floor level. Currently the rooms have rooflights but windows are needed as a means of escape. The proposed window to Plot 6 will face onto the streetscene and look toward Plot 4. The closest separation distance between Plots 4 and 6 would be 12.2 metres approximately. This is a side to front relationship. The proposed window to Plot 7 will look directly onto the rear garden area of Laurel House. As both bedrooms benefit from rooflights, it is considered in this instance that obscure glazing to the proposed windows would provide privacy and prevent direct overlooking issues. A condition is therefore required to ensure that both windows comprise obscure glazing to help protect residential amenity for inhabitants of the development and for occupiers of Laurel House.
- 8.16. There are no new policy/guidance considerations since the grant of the original permission which would alter the assessment of the proposal with respect to residential amenity.
- 8.17. Therefore, this application is considered to be acceptable in amenity terms and in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the revised NPPF (2021).

Impact upon highway safety

- 8.18. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.19. Paragraph 111 of the NPPF (2021) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 8.20. Paragraph 112 of the NPPF states that development should be designed to enable charging of plug in and other ultra low emission vehicles in safe, accessible and convenient locations.
- 8.21. The proposed alteration to the roof material will not impact upon access or highway safety considerations and as such the proposal accords with Policies DM17 and DM10 (g) and the revised NPPF 2021.

Drainage

- 8.22. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.23. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.24. The Council's Drainage team raise no comments or objections to the proposed changes.

Other Matters

- 8.25. A Section 73 application cannot be used to vary the time limit for implementation, this condition must therefore remain unchanged from the original permission.
- 8.26. Conditions 2 and 3 of the existing reserved matters consent 22/00353/REM have been discharged under ref 23/00288/DISCON. This relates to a heat pump and electric vehicle charging provision for the development. These agreed details are set out as part of instructional conditions below to ensure the development is carried out in accordance with the details agreed by the local planning authority.

9. 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 in the consideration 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. **Recommendation**

Grant planning permission subject to the following:

- Planning Conditions

Conditions and Reasons

1. The development hereby permitted shall be carried out in accordance with the following details received :

- Location Plan 2106-PL-001
- Proposed Demolition Plan 2106-PL-003 Rev A
- Proposed Site General Arrangement Plan 2106-PL-004 Rev A
- Amended Landscape Plan 2106-PL-005 Rev B
- Proposed Ground Floor Plan 2106-PL-006 Rev B
- Proposed First Floor Plan 2106-PL-007 Rev D
- Proposed Roof Plan 2106-PL-008
- Plot 1 Plans and Elevations 2106-PL-201_Rev A
- Plot 2 Plans and Elevations 2106-PL-202_Rev A
- Plot 3 Plans and Elevations 2106-PL-203_Rev A
- Plot 4 Plans and Elevations 2106-PL-204_Rev A
- Plot 5 Plans and Elevations 2106-PL-205_Rev A
- Plot 6 Plans and Elevations 2106-PL-206_Rev C
- Plot 7 Plans and Elevations 2106-PL-207_Rev C

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).

2. The heat pump details/provision for the development shall be carried out in accordance with the following details agreed by the local planning authority on 20 April 2023:
Proposed Site Plan_Ground Floor Plan_Rev 03 LHF-ASL-SP-00L-DP-A-006
C2 Heat Pump Brochure – Laurel House Farm Bagworth

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

3. The electric vehicle charging point details for the development shall be carried out in accordance with the following details agreed by the local planning authority on 20 April 2023:
Electric Car Charger - Zappi - V2
C2 & C3 - Proposed Site Plan_Ground Floor Plan_Rev 03 LHF-ASL-SP-00L-DP-A-006

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

4. The approved landscaping scheme shall be implemented in accordance with the approved details in Condition 1 and maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the work is carried out within a reasonable period and thereafter maintained in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A to E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. The first floor windows on the side elevation of Plots 6 and 7 shall be fitted with obscure glazing to a minimum of 3 level of the Pilkington scale. Once so provided the windows shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the Site Allocations and Development Management DPD 2016 and the requirements of the NPPF.