

Erection of detached dwelling.

Report Item No  
A6

Church View 59 The Moor Coleorton Coalville Leicestershire  
LE67 8GB

Application Reference  
17/01622/FUL

Applicant:  
Mrs C Collier

Date Registered:  
10 November 2017

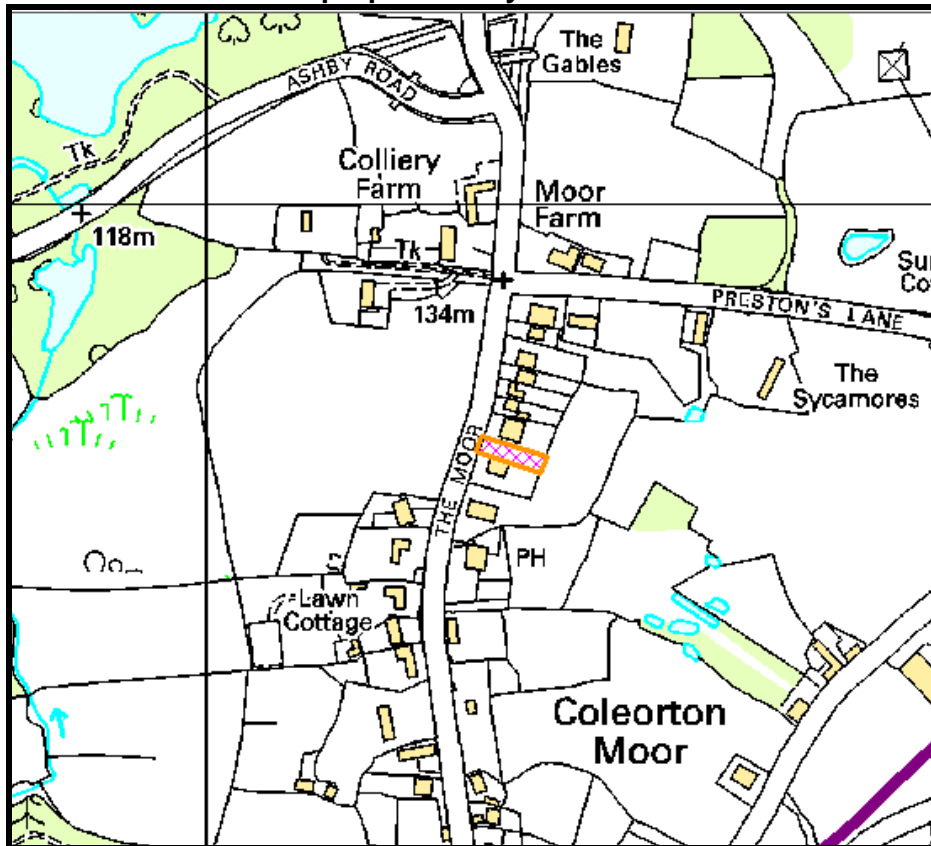
Case Officer:  
Rob Duckworth

Consultation Expiry:  
22 December 2017

Recommendation:  
REFUSE

8 Week Date:  
5 January 2018  
Extension of Time:  
None Agreed

Site Location - Plan for indicative purposes only



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## **EXECUTIVE SUMMARY OF PROPOSALS**

### **Call In**

The application is brought to the Planning Committee as the Ward Member (Councillor Boam) has requested it to be considered by Planning Committee if the recommendation is to approve the application owing to the similarities to this application and an application at 30 Ashby Road, Newbold Coleorton (17/01606/FUL) which has also been called to Committee and is reported on this agenda.

### **Proposal**

The application is for the erection of a dwelling adjacent to 59 The Moor, Coleorton. Access will remain as existing but be shared by the proposed and host dwelling.

### **Consultations**

A total of two individual representations have been received with one supporting and one objecting to the proposals. Coleorton Parish Council has not made any representations on the proposals. There are no objections from other statutory consultees subject to conditions.

### **Planning Policy**

The site lies outside the Limits to Development as identified in the North West Leicestershire Local Plan 2017. The application has been assessed against the relevant policies in the NPPF, the Local Plan and other relevant guidance.

### **Conclusion**

The site is located within the countryside and residential development is not listed as an acceptable use under Policy S3 of the adopted Local Plan 2017. Therefore, the proposal would be fundamentally at odds with the settlement hierarchy and strategic housing aims of Policy S2 and the countryside Policy S3 of the adopted Local Plan 2017. Coleorton (the area outside of the defined Limits to Development) is not considered to be a sustainable settlement and occupiers of the dwelling would be reliant upon the private motorcar to access basic day to day needs.

There are no material planning considerations that would outweigh this harm. Accordingly, the proposal cannot be considered to represent sustainable development and, therefore, the application is not considered to be acceptable.

Furthermore, a coal mining risk assessment is required and the one submitted is not appropriate. The Coal Authority has objected to the proposal based on the lack of this report which could lead to unacceptable risks from pollution and land instability. The application is unacceptable as the future occupants of the property could be at risk from the legacy of coal mining activity in the area.

It is therefore recommended that the application be refused.

### **RECOMMENDATION - REFUSE.**

**Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.**

## MAIN REPORT

### 1. Proposals and Background

Planning permission is sought for the erection of one detached dwelling adjacent to No.59 The Moor, Coleorton. The plans show a detached, two-bed, dormer bungalow style dwelling of similar footprint size to the host property. The proposed property will have an integral single garage which replaces/converts (to some degree) the detached double garage of the existing host dwelling (which used to be part of the original bungalow on the site - see history). Access to the site is proposed from the existing access off The Moor that will become a shared drive. Three car parking spaces have been provided for both the proposed and host property.

The application site is located outside of the Limits to Development in the adopted Local Plan 2017.

Relevant Planning History:

02/00701/OUT - Erection of one detached single storey dwelling and garage (outline - all matters reserved). Refused

03/00443/FUL - Erection of two storey dwelling and part demolition/conversion of existing bungalow to double garage with room over. Permitted.

### 2. Publicity

2 neighbours have been notified.

Site Notice displayed 1 December 2017.

Press Notice published Leicester Mercury 22 November 2017.

### 3. Summary of Consultations and Representations Received

**Coleorton Parish Council** - No representation received.

**Coal Authority** - Objections related to an inadequate coal mining report.

**Severn Trent** - No representations received.

**LCC Ecology** - No objections and no surveys required.

**NWLDC Environmental Health** - No objections.

**NWLDC Street Management** - No representations received but any comments will be reported on the Update Sheet.

#### Third Party Representations

Three representations have been received from third parties whose comments are summarised as follows although one support letter was anonymous and has been discounted: -

One objection letter:

- Proposed design location and massing inappropriate

- Impacts on neighbour amenity (over shadowing)
- Increased noise and movements to/from the site.

One support letter:

- Complements existing properties and area
- Local Need
- Lack of smaller properties in area
- No loss of amenity
- Add to sustainability of village - through use of services
- Infill development
- Was within the Limits to Development of the Local Plan 2002.

#### **4. Relevant Planning Policy**

##### **National Planning Policy Framework**

The following sections of the NPPF are considered relevant to the determination of this application:

- Paragraph 7, 17 (Achieving sustainable development)
- Paragraph 14 (Presumption in favour of sustainable development)
- Paragraph 32, 34 (Promoting sustainable transport)
- Paragraph 47, 49 (Delivering a wide choice of high quality homes)
- Paragraph 57, 59, 61 (Requiring good design)

##### **North West Leicestershire Local Plan 2017**

The following policies of the adopted local plan are consistent with the policies of the NPPF and should be afforded weight in the determination of this application:

- Policy S2 - Settlement Hierarchy
- Policy S3 - Countryside
- Policy D1 - Design of New Development
- Policy D2 - Amenity
- Policy IF4 - Transport Infrastructure and New Development
- Policy IF7 - Parking Provision and New Development
- Policy En1 - Nature Conservation
- Policy Cc2 - Water - Flood Risk
- Policy Cc3 - Water - Sustainable Drainage Systems

##### **Other Guidance**

- National Planning Practice Guidance (NPPG)
- 6Cs Design Guide (Leicestershire County Council)
- The Good Design SPD

#### **5. Assessment**

##### **Principle and Sustainability**

In accordance with the provision of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the starting point for the determination of the application is the Development Plan which, in this instance, includes the adopted Local Plan (2017).

In terms of the Council's adopted Local Plan, Policy S2 contains a settlement hierarchy and Coleorton (the area outside of the defined Limits to Development) is specified as a 'Small Village' with limited services and facilities and where residential development is not supported unless it is a conversion or redevelopment of previously developed land (as defined by the NPPF). The area would be classified as a built-up area but still rural and not supported by any shops or other services other than bus stops (with notably poor service), pubs, and primary school. The concept of new development being directed to locations that minimise reliance on the private motorcar is also contained within the NPPF. Given the above, it is considered the future occupiers of the dwelling would be heavily reliant upon the private motorcar to access basic day to day needs, which weighs heavily against the site being socially sustainable.

The site is located within the countryside where residential development is not listed as an acceptable use under Policy S3 of the Local Plan 2017. Therefore, the proposal would be fundamentally at odds with the settlement hierarchy and strategic housing aims of Policy S2 and the countryside Policy S3 in the adopted Local Plan.

There is some attempt to suggest that the proposals are a conversion of an existing garage, but the extensive works required to extend and adapt the existing building are tantamount to a complete new build. Whilst there was a bungalow on the site previously which was the donor for the house that exists now and was partly converted to form the garage, the site remained only as a single residential address resulting in no net gain of dwellings. The site is now outside the Limits to Development and the development proposed is precluded in planning policy terms.

The site currently represents part of the residential curtilage associated with the host property, No.59 The Moor, Coleorton. Garden land in built up areas is excluded from the definition of previously developed land set out in the NPPF and therefore effectively constitutes a greenfield site. The NPPF states that decisions should encourage the effective use of land by re-using land that has been previously developed and that Local Planning Authorities should consider the use of policies to resist inappropriate development of residential gardens. As the Council does not have a specific policy that prevents development on gardens, it is deemed that a reason for refusal on the basis of the loss of part of the residential garden could not be justified in this instance.

Taking the policies into account, the proposal is in not in accordance with the development plan and cannot be considered to represent sustainable development. Therefore, the application is not considered to be acceptable in principle.

### **Design**

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 but also Paragraphs 57, 60 and 61 of the NPPF.

There are a variety of dwellings in the vicinity, with a mix of bungalows, two storey, detached and semi-detached with most fronting The Moor. The host property is a detached relatively new dwelling that has been designed in a modern rural style, of which there are several examples in the area.

The proposed dwelling is of a rural dormer bungalow design which is considered acceptable and its scale is such that it bridges the gap between the host property and the adjacent bungalow. The general scale, form, massing and materials proposed would be acceptable for the site and would be appropriate within the street scene.

In terms of wider visual impacts on the countryside, the site is bounded by residential

development and therefore, it is not considered that the development of the site would result in significant harm in this regard.

Therefore, it is considered that the proposed design would comply with Policy D1 of the Local Plan 2017, the NPPF and the Good Design SPD.

### **Neighbours' Amenities**

Based on the location, orientation and design of the proposed dwelling it is considered that there will be some adverse impacts upon the neighbouring properties, No57 The Moor, although there is a very mature, dense coniferous hedge along the entire party boundary. This hedge will result in limited outlook for the occupiers of No.57 and will affect light to some degree. The erection of a new dwelling adjacent will impact on the light to some degree but it is not considered significant enough to warrant a refusal of permission as there will be a 4m gap between the two and this should allow for light penetration.

There is sufficient resultant amenity space for the proposed and the host dwelling and the occupiers of both will be afforded sufficient amenity protection from each other.

The District Council's Environmental Protection team has reviewed the submitted information and has no objections, and it is not considered that the proposal would result in significant adverse impacts on health or quality of life. Accordingly, the requirements under Policy D2 of the Local Plan 2017 are considered to have been met by the scheme and the proposal would not conflict with paragraph 123 of the NPPF.

### **Highway Safety**

Access to the site would be altered by moving it closer to the existing house. This would serve both the host property and the proposed house. A total of three car parking spaces for the existing and proposed dwellings have been proposed which is an acceptable provision for both dwellings and the access arrangements are considered to accord with the 6Cs Design Guide, the LCC Highways Standing Advice and the Good Design SPD.

Overall, the proposal is considered to be acceptable in relation to Policies IF4 and IF7 of the adopted Local Plan as well as the County Council 6Cs design guidance.

### **Coal**

The Coal Authority have objected to the application on the basis that the Coal Mining Report submitted in support of the application does not constitute a Coal Mining Risk Assessment and, as such, there is inadequate information to assess the potential impact of the development on legacy of coal mining in the area. In the circumstances that it is a requirement of Paragraphs 120 and 121 of the NPPF for the applicant to demonstrate to the Local Planning Authority that the application is safe and suitable for the development, with Paragraph 45 of the NPPG making it clear that planning applications in the defined Development High Risk Area must be accompanied by a Coal Mining Risk Assessment, it is considered that the potential risks to any inhabitants of the site cannot be adequately assessed and as such the proposal is contrary to the aims of Paragraphs 120 and 121 of the NPPF.

### **Other**

The applicant's agent has, during the course of the application, indicated that the dwelling would be both 'self-build' and a 'local needs' dwelling. There are no policies within the Local Plan 2017 or the NPPF which attach any weight to a potential 'local need' dwelling. In respect of 'self-build' there is policy support for such dwellings in the NPPF but this would not outweigh the substantial conflict with adopted Local Plan and the advice in the NPPF identified above.

## **Conclusion**

The site is located within the countryside and residential development is not listed as an acceptable use under Policy S3 of the adopted Local Plan 2017. Therefore, the proposal would be fundamentally at odds with the settlement hierarchy and strategic housing aims of Policy S2 and the countryside Policy S3 of the adopted Local Plan 2017. Coleorton (the area outside of the defined Limits to Development) is not considered to be a sustainable settlement and occupiers of the dwelling would be reliant upon the private motorcar to access basic day to day needs.

There are no material planning considerations that would outweigh this harm. Accordingly, the proposal cannot be considered to represent sustainable development and, therefore, the application is not considered to be acceptable.

Furthermore, a coal mining risk assessment is required and the one submitted is not appropriate. The Coal Authority has objected to the proposal based on the lack of this report which could lead to unacceptable risks from pollution and land instability. The application is unacceptable as the future occupants of the property could be at risk from the legacy of coal mining activity in the area.

It is therefore recommended that the application be refused.

## **RECOMMENDATION - REFUSE, for the following reason:**

- 1 Policy S2 of the Local Plan (2017) contains a settlement hierarchy and this part of Coleorton is specified as a 'Small Village' that has limited services and facilities and where residential development is not supported. Policy S3 of the Local Plan (2017) does not support residential development unless it is a conversion or redevelopment of previously developed land (as defined by the NPPF). The proposal would be fundamentally at odds with the settlement hierarchy and strategic housing aims of Policy S2 and the countryside Policy S3 in the Local Plan (2017) and future occupiers of the dwelling would be heavily reliant upon the private motorcar to access basic day to day needs. Approval of the application would result in the unnecessary development of land located outside Limits to Development, not constituting sustainable development, and contrary to the policies and intentions of Policy S2 and S3 of the Local Plan (2017) and the advice in the NPPF.
- 2 Paragraphs 120 and 121 of the National Planning Policy Framework (NPPF) outline that, amongst other things, planning decisions should prevent unacceptable risks from pollution and land instability to any new development. In the absence of a Coal Mining Risk Assessment it is considered that it cannot be satisfactorily concluded that the future inhabitants of any dwelling on the site would not be at risk from the legacy of coal mining activity in the area and as such to permit the proposal would be contrary to Paragraphs 120 and 121 of the National Planning Policy Framework.