

Erection of detached dwelling, detached garage and associated infrastructure

**Report Item No
A2**

**Land Adjacent To Oak Tree Stables School Lane Newbold
Leicestershire LE67 8PF**

**Application Reference
19/01419/FUL**

**Grid Reference (E) 440196
Grid Reference (N) 318665**

**Date Registered:
25 July 2019**

**Consultation Expiry:
18 August 2020**

**Applicant:
Mr S Stewart**

8 Week Date:

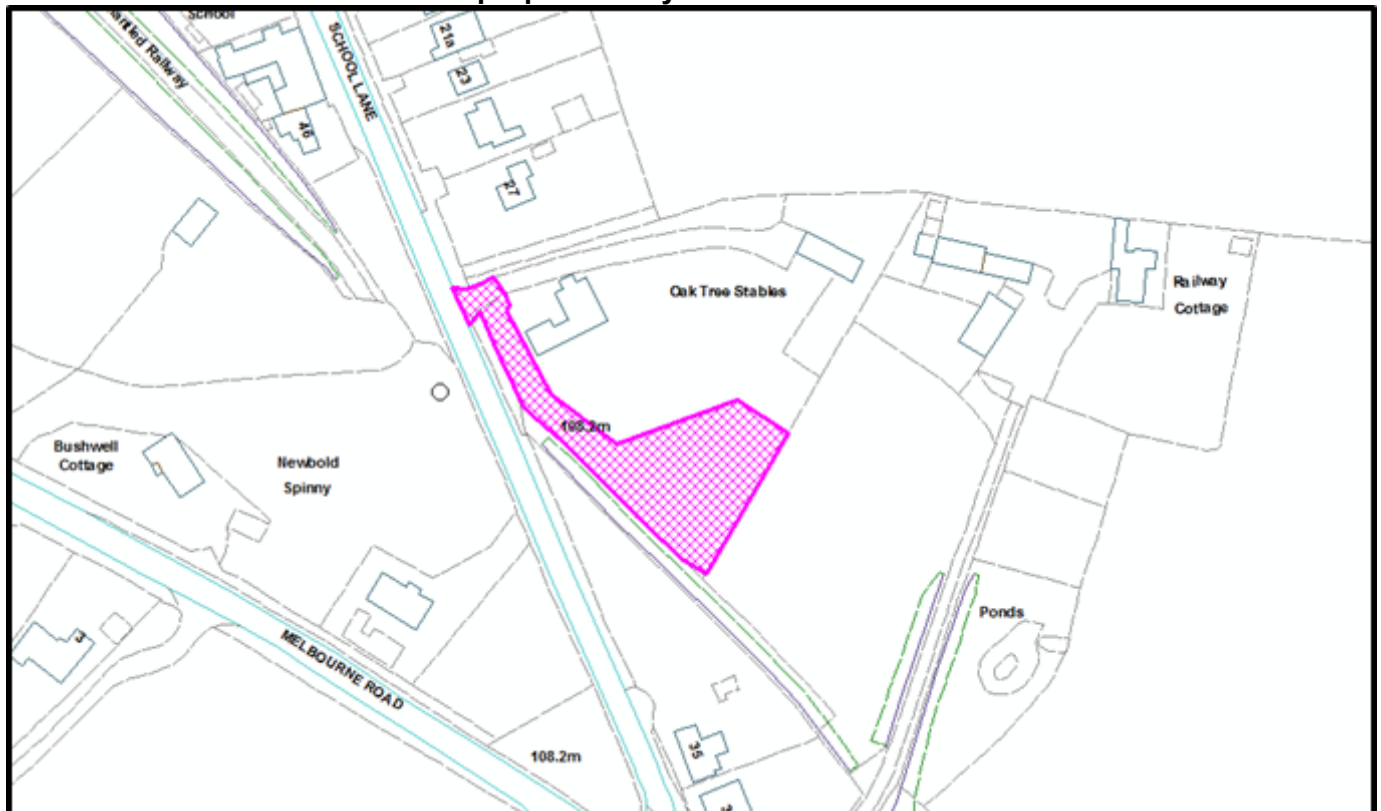
19 September 2019

**Case Officer:
Ebbony Mattley**

**Extension of Time:
None Agreed**

**Recommendation:
REFUSE**

Site Location - Plan for indicative purposes only



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Executive Summary of Proposals and Recommendation

Call In

The application is brought to Planning Committee, as the application site is owned by an elected member (Councillor Boam).

Proposal

Full permission is sought for the erection of a detached dwelling, detached garage and associated infrastructure at land adjacent to Oak Tree Stables, School Lane, Newbold.

Vehicular access would be provided off School Lane, to be a shared access with the existing dwelling 'Oaktree' and Oaktree Stables.

Consultations

A total of 7 letters of objection from 2 local addresses and support from 2 local addresses have been received. All statutory consultees who have responded have raised no objections subject to the imposition of conditions. No comments have been received by Worthington Parish Council.

Planning Policy

The site lies outside the Limits to Development on the Policy Map to the adopted Local Plan. The application has also been assessed against the relevant policies in the NPPF, the adopted Local Plan and other relevant guidance.

Conclusion

The proposed residential development which would be located outside the Limits to Development would not be a form of development permitted by Policies S2 or S3 of the adopted Local Plan (2017). The application would result in the unwarranted development of a greenfield site located outside Limits to Development, not constituting sustainable development, contrary to the policies and intentions of Policies S2 and S3 of the adopted Local Plan (2017) and the advice in the NPPF. 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 and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Full permission is sought for the erection of a detached dwelling, detached double garage and associated infrastructure at land adjacent to Oak Tree Stables, School Lane, Newbold.

The 1.5 storey detached dwelling consisting of five bedrooms is proposed. A detached double garage is proposed to the south.

During the course of the application, amended plans have been received to propose the vehicular access off School Lane, to be a shared access with Oaktree and Oaktree Stables. A revised certificate was provided, showing that notice had been served upon the owners of Oaktree/Oaktree Stables and re-consultation undertaken.

Furthermore, following concerns raised by officers regarding the scale and detailing of the dwelling, amended plans have been received during the course of the application making design changes to the dwelling and garage, including detaching the garage and re-consultation has been undertaken.

During the processing of the application, the applicant's agent has provided additional information including soil infiltration rate and drainage plans garage and re-consultation has been undertaken.

The site lies outside the Limits to Development on the Policy Maps, to the adopted Local Plan and within a Coal Mining Development High Risk Area.

The application is supported by a Coal Mining Risk Assessment report.

Relevant Planning History:

None relevant to this proposal.

2. Publicity

7 neighbours notified.

3. Summary of Consultations and Representations Received

The following summary of representations is provided. Members will note that full copies of correspondence received are available on the Council's website.

Statutory Consultees

No objection from:-

Leicestershire County Council - Lead Local Flood Authority (Standing Advice)
Leicestershire County Council - Ecology

No objection, subject to condition(s) from:-

Coal Authority
Leicestershire County Council - Highways
NWLDC Environmental Protection - Land Contamination

No response received from:-

Worthington Parish Council
Severn Trent Water

Third Party Representations

Letters of support from No 27 School Lane and OakTree Stables have been received stating that:-

- the village is in need of family sized homes to help support the local shop, pub, school and help the village become more sustainable;
- the Parish have not objected;
- infill parcel of land which sits in-between two new builds and would not be visible from the road;
- Similar buildings in the village have received permission; and
- drains have been cleared and there are no issues over flooding.

Seven letters of objection, including from No's 33 and 35 School Lane have been received, raising objections on the following grounds:

Principle

- Outside limits for development and in an unsustainable location reliant upon the motor car and residential development is not supported under planning policy;
- Contrary to Policies S2 and S3;
- Out of the building line;
- The proposed development would exacerbate the existing ribbon development to the south of Newbold and as the proposed dwelling is set back from the road, it would not be well integrated with the existing pattern of development;

Residential Amenity

- No. 33 will be affected by loss of privacy and overlooking;
- Close proximity of the tree planting affects daylight into our living room and kitchen;

Drainage and Flooding

- Exacerbate existing flooding issues;
- Water does not easily permeate the ground (clay) and uncontained run-off water from the land and buildings at Oak Tree Stables flows into adjacent properties causing flooding on a number of occasions;
- Significant concerns over the loss and removal of the existing pond and drainage impacts upon surrounding properties and land;
- The drainage for Oak Tree Stables is in part a pond, and this scheme intended to be built over the pond;
- The revised proposal shows surface water from both Oak Tree Stables and the application

dwelling diverted into a soakaway and a soakaway would not be suitable given the heavy clay nature of the soil;

- No soakaway testing has been undertaken;
- The pond is not shown on the location plan;

Other

- Visibility at the road access; and
- Considerable infill creating a ditch with the new embankment;
- Submitted plan encroaches over the boundary of 33 School Lane in contradiction to the plan shown on the land registry.

4. Relevant Planning Policy

National Policies

National Planning Policy Framework (2019)

The policies of the North West Leicestershire Local Plan as listed in the relevant section below are consistent with the policies in the NPPF. The following paragraphs of the NPPF are considered relevant to the determination of this application:

Paragraphs 7, 8, 9, 10, (Achieving sustainable development);
Paragraphs 11, 12 (The Presumption in Favour of Sustainable Development);
Paragraph 55 (Planning conditions and obligations);
Paragraph 79 (Delivering a sufficient supply of homes);
Paragraphs 108, 109 (Promoting sustainable transport);
Paragraphs 127, 130 (Achieving well-designed places);
Paragraphs 163, 164 (Meeting the challenge of climate change, flooding, and coastal change);
and
Paragraph 178 (Ground conditions and pollution).

Adopted North West Leicestershire Local Plan (2017)

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

S2 - Settlement Hierarchy;
S3 - Countryside;
D1 - Design of New Development;
D2 - Amenity;
IF4 - Transport Infrastructure and New Development;
IF7 - Parking Provision and New Development;
EN1 - Nature Conservation;
CC2 - Water - Flood Risk; and
CC3 - Water - Sustainable Drainage Systems.

Other Policies/Guidance

National Planning Practice Guidance
Leicestershire Highways Design Guide
Good Design for North West Leicestershire SPD - April 2017

5. Assessment

Principle of Development

In accordance with the provisions 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 North West Leicestershire Local Plan (2017).

The site is greenfield land located outside the defined Limits to Development and is therefore located within land designated as Countryside. On sites falling outside the defined Limits to Development, residential development is not a form of development that is permissible by Policy S3 of the adopted Local Plan (2017) save for limited exceptions as specified in the policy (i.e. re-use or adaptation of an existing building or the redevelopment of previously developed land).

Policy S2 is also relevant to the determination of the application and contains a settlement hierarchy which guides the location of future development with settlements further up the hierarchy able to take more growth. Policy S2 categorises Newbold as a 'Small Village' with very limited services, where development will be restricted to conversions of existing buildings or the re-development of previously developed land, or affordable housing in accordance with Policy H5.

The concept of new development being directed to locations that minimise reliance on the private motorcar is contained within the NPPF. Policy S2 is consistent with the core principle of the National Planning Policy Framework ("the NPPF") to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

Newbold does not have a shop and it is not supported by any other services, other than bus stops, a public houses, and a primary school. 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 and environmentally sustainable.

The NPPF requires that the District Council should be able to identify a five year supply of housing land with an additional buffer of 5% or 20% depending on its previous record of housing delivery. The District Council has a 10.2 year housing land supply and therefore, is able to demonstrate a five year supply of housing (with 20% buffer) against the requirements contained in the adopted Local Plan.

It is noted that applications prior to the adoption of the Local Plan in 2017 in Newbold were not refused on grounds of sustainability, for examples application ref: 15/00241/FUL, however since the adoption of the Local Plan in 2017 and Newbold being categorised as a 'Small Village' and lower order settlement, within the hierarchy set out within Policy S2, new residential development in Newbold which does not relate to the conversion of existing buildings or redevelopment of previously developed land, is not supported in policy terms. Application ref:

18/00112/FUL at 17 School Lane, Newbold was refused in April 2018 on the same grounds.

In summary, the proposed residential development which would be located outside the Limits to Development would not be a form of development permitted by Policies S2 or S3 of the adopted Local Plan (2017). The application would result in the unwarranted development of a greenfield site located outside Limits to Development, not constituting sustainable development, contrary to the policies and intentions of Policies S2 and S3 of the adopted Local Plan (2017) and the advice in the NPPF.

As the settlement of Newbold, does not benefit from a wide range of local services, it is considered the future occupiers would be reliant upon the private motorcar to access basic day to day needs. The proposal for new residential development, is therefore, not considered to represent a sustainable form of development.

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 Policies S2 and S3 of the adopted Local Plan (2017) and the advice in the NPPF. It is considered, on balance, that any potential benefits of the scheme as proposed would be insufficient to outweigh the conflict with the development plan and the NPPF resulting from the harm as identified in the report, above.

Siting and Design and Impact upon Character

The need for good design in new residential development is outlined not only in adopted Local Plan Policy D1 and the Council's Good Design SPD but also paragraphs 127 and 130 of the NPPF.

Officers expressed concern over the scale and character of the proposed dwelling as originally submitted, given its location within the countryside on the edge of existing built development. In the opinion of officers the original scale and mass of the building would have exceeded that of neighbouring development, the angular footprint would have resulted in a convoluted external appearance to the dwelling and the height and expanse of a hipped roof would dominate, given the sunken nature of the building in relation to the highway.

In response, during the course of the application amended plans have been received, removing the hipped roof design and angular layout. The scheme now proposes a 1.5 storey dwellings, with first floor accommodation within the roof space and the introduction of dormer windows which is of an acceptable scale.

In terms of design, the scheme proposes a more traditional, flat frontaged style with gable roof design, rear projecting gables, and two external chimney stacks.

In respect of the siting of the dwelling, the scheme does not propose frontage development and the angle of the dwelling carefully considers neighbouring dwellings, to avoid any direct overlooking.

The scale of the garage is subservient in relation to the main dwelling and the roof design and materials matching those of the main dwelling to give a compatible appearance.

In summary, following the submission of amended plans the siting, scale and design approach are considered to be acceptable and development appears in keeping with the character of the area. Therefore, the proposed development is considered to be in accordance with Policy D1 of

the adopted Local Plan, the Council's Good Design SPD and the NPPF.

Impact upon Residential Amenity

The closest residential dwellings to the application site are 'Oaktree' to the north of the application site and No's 33 and 35 School Lane to the south.

The residential dwelling most immediately impacted upon as a result of the proposal would be No. 33 School Lane and objections have been received on the basis of overlooking and loss of privacy.

No. 33 School Lane is of single storey proportions and has recently been constructed following grant of planning permission refs: 15/00241/FUL and 16/00563/VCU. Whilst it is acknowledged that No. 33 has not been shown on the submitted plans, it is considered that officers have been able to make an assessment based upon a site visit, the application plans and the plans as part of the approval of No. 33 School Lane. Given the land levels that slope down from School Lane and the embankment, the application dwelling is proposed to be sited in a lower position, with neighbouring No. 33 being in an elevated position.

The proposed dwelling is sited to the north of the application site, furthest away from No. 33, with the proposed detached garage between . It is considered that there is sufficient distances from the side wall of the proposed dwelling to the closest neighbouring dwelling to the south, complete with the land levels differences, to ensure that there would not be any significant overshadowing, loss of light or overbearing impacts upon the occupiers of No. 33. The scheme proposes one first floor side window (to the south elevation) to serve an en-suite which would be obscurely glazed and thus there would not be any significant overlooking impacts. The proposed detached garage would be located along the southern boundary of the application site and closer to the neighbour dwellings, however by virtue of its single storey proportions and given no windows are proposed, it is not considered that the garage would give rise to an unacceptable impacts upon the occupiers of this neighbouring dwelling.

There is sufficient distances from the northern elevation of the proposed dwelling to the neighbour 'Oaktree' to the north to ensure that there is no sufficient overshadowing, loss of light or overbearing impacts. The scheme proposes one first floor side window to serve an en-suite which would be obscurely glazed and thus there would not be any significant overlooking impacts. There are habitable windows in the front elevation, however it is considered that they are orientated to the west and therefore would not result in any direct overlooking upon the amenity area of 'Oaktree'.

All other surrounding residential properties, including No. 35 School Lane are considered to be a sufficient distance away from the proposal and are therefore unlikely to be significantly affected by this proposal. It is also noted that mature landscaping around the site would be retained.

In summary, the proposal is not considered to result in significant impacts upon surrounding residential amenity. Therefore, the proposed development is considered to be in accordance with Policy D2 of the adopted Local Plan and the Council's Good Design SPD and the NPPF.

Highway Considerations

Following a series of concerns raised by the County Highway Authority ("CHA") the applicant proposed a new access arrangement, which utilises an existing access on School Lane, which is used by the occupiers of Oak Tree Stables, in addition to the business of Russell's Garden Buildings.

The CHA have confirmed that the new proposed access can achieve suitable visibility and the intensification of the access, for use for one additional dwelling, would be acceptable.

The scheme proposes a dwelling of five bed configuration and three on-site parking spaces can be provided within the scheme (including the double garage), and turning has been provided to enable vehicles to enter and exit the site in a forward gear.

The CHA's view is that the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 109 of the NPPF, subject to the imposition of appropriate conditions.

In summary, on the basis of the above the highway safety aspects of the scheme are considered acceptable. The proposal is considered acceptable in relation to Policies IF4 and IF7 of the adopted Local Plan, the Leicestershire Highways Design Guide and the NPPF.

Drainage and Floodrisk

The application dwelling is to be sited on the area of the existing pond. The site lies within Flood Zone 1, which is an area of low probability of flooding. A small section of the southern part of the site (to form the garden) has a 'medium' risk of surface water flooding.

Concerns have been raised by residents in relation to the loss of the pond and the existing drainage and flooding problems in the area, resultant of the development at 'Oaktree'. Accordingly, neighbours believe that the situation would be exacerbated and that the clay ground conditions would not be suitable for a soakaway. Ordinarily based upon the low risk of flooding, consultation within the Lead Local Flood Authority ("LLFA") would not be required, however following the concerns raised by neighbours, officers have been in dialogue with the LLFA to discuss these concerns further.

Following concerns raised by neighbouring letters of representation, and in consultation with the LLFA, officers requested that additional information be supplied to confirm whether a soakaway is suitable in this location given the geology of the site.

The scheme proposes the removal of an existing pond and surface water is proposed to be disposed of by way of a soakaway. During the course of the application, the application has provided additional information including soil infiltration rate and drainage plans.

The additional information has been considered by the Council's Building Control Team who confirmed that a test hole has been dug and the site drains better than expected, although more detailed considerations and tests would need to be done under Building Control legislation.

In summary, when determining planning applications, the local planning authority should ensure flood risk is not increased elsewhere. The LLFA have confirmed that a review of flood mapping

for fluvial and surface water does not raise any specific concern. Furthermore, the soil infiltration rate calculations have demonstrated that a soakaway would be suitable in this location, however the precise design and construction would be subject to Building Regulations Approval Document H. Accordingly no further consideration of the soakaway, under the planning process is considered to be necessary. The proposal is considered acceptable in relation to Policies CC2 and CC3 of the adopted Local Plan and the NPPF.

Other Matters

Coal

The application site falls within the Coal Authority's defined Development High Risk Area and the application is accompanied by a Coal Mining Risk Assessment report (March 2019, prepared by Ivy House Environmental). The scheme has been considered by the Coal Authority who confirm that should planning permission be granted, a condition should be imposed requiring intrusive site investigations to take place, prior to the commencement of development.

Land Contamination

The Council's Environmental Protection - Land Contamination Officer has raised no objections to the development with regards to ground contamination subject to the imposition of conditions.

Ecology

The County Council Ecologist has confirmed that an ecology survey is not required and there are no further comments to make.

Conclusion

In conclusion, the application falls to be considered under Policy S3 of the adopted Local Plan (2017) which does not support residential development on greenfield sites, outside Limits to Development. The scheme is therefore considered to result in un-necessary development of greenfield land and encroachment into the countryside. Furthermore, Policy S2 of the adopted Local Plan (2017) contains a settlement hierarchy and Newbold is specified as a Small Village with very limited services and facilities. Accordingly, the application site would also be in a socially unsustainable location due to the lack of service provision in the settlement of Newbold not assisting in supporting the basic needs of any future occupants of the properties which therefore results in a heavy reliance on the private car. The application would result in the unwarranted development of a greenfield site located outside Limits to Development, not constituting sustainable development, contrary to the policies and intentions of Policies S2 and S3 of the adopted Local Plan (2017) and the advice in the NPPF.

The scheme, subject to the imposition of conditions, would not give rise to any significant material impacts upon the occupiers of neighbouring dwellings, highway safety, drainage or flood risk, ecology, or land contamination and instability.

It is considered, on balance, that any potential benefits of the scheme would be insufficient to outweigh the conflict with the development plan and the NPPF resulting from the harm as identified in the report, above.

It is therefore recommended that the application be refused.

RECOMMENDATION - REFUSE, for the following reason:

- 1 Policy S2 of the adopted Local Plan (2017) contains a settlement hierarchy and Newbold is specified as a Small Village with very limited services and facilities and where development will be restricted to conversions of existing buildings or the redevelopment of previously developed land. The proposed new dwelling on a greenfield falls to be considered under Policy S3 of the adopted Local Plan (2017) which does not support residential development on greenfield sites outside Limits to Development. 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 (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 Policies S2 and S3 of the adopted Local Plan (2017) and the advice in the NPPF.