OFFICER REPORT

Case No: 25/00928/FUL **Full Planning Application**

Proposal: **Proposed change of use of land to residential curtilage including retention of shed (Retrospective)**

Location: **30 Hawk Drive Hartford Huntingdon**

Applicant: **Mr and Mrs M Mason**

Grid Ref: **525518 273045**

DESCRIPTION OF SITE AND APPLICATION

The application site is an area of land measuring approx. 78.8m² and lying to the south-west of 30 Hawk Drive which is a two-storey detached dwellinghouse located in Hartford. It appears to be a section of 'unresolved land' which remained after completion of the development of 'The Birds' estate during the 1990s.

The site is not within a Conservation Area and there are no Listed Buildings or trees subject to Preservation Orders in the immediate vicinity. It lies within Flood Zone 1 and a very small section to the extreme south-west is at risk from surface water flooding as per the most recent Environment Agency Flood Risk Maps and Data.

The applicants have informally absorbed the section of land within their curtilage and have erected a shed. This application seeks to regularise this matter and follows engagement with Officers at HDC.

Officers have scrutinised the plans and have familiarised themselves with the site and surrounding area.

NATIONAL GUIDANCE

The National Planning Policy Framework (December 2024) (NPPF 2024) sets out the three objectives - economic, social and environmental - of the planning system to contribute to the achievement of sustainable development. The NPPF 2024 at paragraph 10 provides as follows: 'So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11).'

The NPPF 2024 sets out the Government's planning policies for (amongst other things):

* delivering a sufficient supply of homes;
* building a strong, competitive economy;
* achieving well-designed, beautiful and safe places;
* conserving and enhancing the natural, built and historic environment.

Planning Practice Guidance and the National Design Guide 2021 are also relevant and material considerations.

For full details visit the government website: https://www.gov.uk

PLANNING POLICIES

Huntingdonshire's Local Plan to 2036 - adopted May 2019

LP2: Strategy for Development
LP5; Flood Risk
LP7: Spatial Planning Areas
LP11: Design Context
LP12: Design Implementation
LP14: Amenity
LP15: Surface Water
LP30: Biodiversity and Geodiversity
LP31: Trees, Woodland, Hedges and Hedgerows

Huntingdon Neighbourhood Plan 2018-2026 (September 2019) Policies:

NE3 - Setting of Huntingdon
BE1 - Design and Landscaping
BE2 - Local Distinctiveness and Aesthetics

Supplementary Planning Documents (SPD) and Guidance:

Huntingdonshire Design Guide (2017)
Developer Contributions SPD (2011)
Huntingdonshire Landscape and Townscape SPD (2022)
Huntingdonshire Strategic Flood Risk Assessment (2024)
Cambridgeshire Flood and Water SPD (2024)
Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021)

Local policies are viewable at https://www.huntingdonshire.gov.uk

RELEVANT PLANNING HISTORY

8802570OUT - Residential development, (4.25 ha), Manor Farm (west of), Hartford, Huntingdon (Permission)

9200798REM - Layout, siting, design and access for the erection of 58 Dwellings Manor Farm (Phases 2, & 4), Hartford, Huntingdon (Details Approved)

9600098FUL - Erection of 19 dwellings (Permission)

CONSULTATIONS

Huntingdon Town Council - Approve "application represented sustainable development."

HDC Environmental Health Team - No objection lodged but suggested condition and highlighted previous discussions regarding the use of the shed on the site. This is discussed further in the proceeding sections of this report.

REPRESENTATIONS

Two objections have been received and these are available to view on HDC's Public Access Site. They broadly relate to the following matters:

*Use of the shed for business purposes.
*Noise and odour as a result of the above.

*Impact on domestic pets and increase in rodents in the area due to use of the shed.

SUMMARY OF ISSUES

When determining planning applications, it is necessary to establish what weight should be given to each plan's policies in order to come to a decision. The following legislation, government policy and guidance outline how this should be done.

As set out within the Planning and Compulsory Purchase Act 2004 (Section 38(6)) and the Town and Country Planning Act 1990 (Section 70(2)) in dealing with planning applications the Local Planning Authority shall have regard to have provisions of the development plan, so far as material to the application, and to any other material considerations. This is reiterated within paragraph 48 of the NPPF (2024). The development plan is defined in Section 38(3)(b) of the 2004 Act as "the development plan documents (taken as a whole) that have been adopted or approved in that area".

In Huntingdonshire the Development Plan consists of a number of adopted neighbourhood plans, and Huntingdon does have a neighbourhood plan (adopted September 2019), and this is given weight in the determination of this application.

The statutory term 'material considerations' has been broadly construed to include any consideration relevant in the circumstances which bears on the use or development of the land: Cala Homes (South) Ltd v Secretary of State for Communities and Local Government & Anor [2011] EWHC 97 (Admin); [2011] 1 P. & C.R. 22, per Lindblom J. Whilst accepting that the NPPF does not change the statutory status of the Development Plan, paragraph 2 confirms that it is a material consideration and significant weight is given to this in determining applications.

The main issues to consider are:

*The principle of development
*Design and visual amenity
*Residential amenity
*Flood risk
*Biodiversity
*Impact on Trees

*The principle of the development

The site is located within the built-up area of Huntingdon which is a Spatial Planning Area as defined under Policy LP7 of Huntingdonshire's Local Plan to 2036. Whilst in this case the application relates to the change of use of land to residential and the retention of an existing shed (and so residential development on a smaller scale than would generally be expected), it remains that LP7 broadly supports residential development (Class C3 which is the use of the adjacent site) where it is appropriately located within the built-up area of a Spatial Planning Area.

Furthermore, in this case, the land is an unresolved section of land at the end of a cul-de-sac which appears to be a remnant from the development of the wider site and is not an area of protected open space designated within either the Local Plan nor the Huntingdon Neighbourhood Plan. As such, the land in question is not (and does not appear that it was ever intended as) usable public open space (not least due to its scale and awkward position) and could not be considered as an area of public value.

Overall, having regard to the above assessment, the development is considered to be acceptable in principle subject to compliance with all other material planning considerations and conditions.

*Design and visual amenity

Policies LP11 and LP12 of the Huntingdonshire Local Plan state, amongst other matters, that proposals will be supported where it is demonstrated that it responds positively to its context and has drawn inspiration from the key characteristics of its surroundings, including natural, historic and built environment, contributes positively to the character and identity of the area and successfully integrates with adjoining buildings, the routes and spaces between buildings, topography and landscape.

Hawk Drive is a relatively modern, late 20th Century housing area with the wider site forming a large part of Hartford on the north-eastern edge of Huntingdon. There is a variance in the design and layout of dwellings forming the streetscene. The section of land which this application relates to is at the end of the cul-de-sac, lying south-west of number 30 and to the north-west of a dwelling on Falcon Drive. There is access (formed as an undeveloped track) leading to Sapley Road further south-west. A fence has been erected forward of the shed extending to the side of number 30 and rear of the row of dwellings at the end of Falcon Drive but this is not within the red line of this application. The land in relation to this application extends north-east to south-west projecting to the rear of the shed (which is typical in terms of design and style) towards the access track at the rear of properties on Sapley Road and strip of land to the rear of 18-30 Hawk Drive.

A typical close-boarded fence forms the north-western, north-eastern and south-eastern boundaries with the south-western boundary open and the rear of the shed visible (though obscured by dense hedgerows and trees). There is considered to be no visual harm as a result of the development and to anyone with no knowledge of the site this would appear nothing more than typical garden land with an ancillary building of reasonable proportions associated with the dwelling.

Overall, the scheme is considered to be acceptable with regard to design and visual amenity and accords with Policies LP11 and LP12 of the Local Plan to 2036 and Policies NE3, BE1 and BE2 of the Huntingdon Neighbourhood Plan 2018-2026 (September 2019).

*Residential amenity

Policy LP14 of the Local Plan states that a proposal will be supported where a high standard of amenity is provided for all users and occupiers of the proposed development and maintained for users and occupiers of neighbouring land and buildings.

HDC's Environmental Health Team have been consulted twice. Initially they raised no objections but modified their comments following further investigation into the history of the site for which complaints relating to noise, odour and disturbance from use. Similar matters were raised in the objections from neighbours. It is understood that historically there have been issues with the keeping or breeding of animals within the shed and have queried if this could be resolved (in the event of an approval) by conditions. Officers have carefully considered this but for the reasons below consider that it would be unreasonable to attach a condition as suggested which would not meet the tests (set out below) of a planning condition.

The NPPF (2024) at Para. 57 sets out that planning conditions should be:

*Necessary;
*Relevant to planning and to the development being permitted;
*Enforceable;
*Precise;
*Reasonable in all other respects.

Meanwhile, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended) permits the erection of a building for uses incidental to the enjoyment of a dwellinghouse (provided certain conditions are met) without the

need for planning permission. Whilst given the retrospective nature of the application (and need to resolve the use of the land which was not residential curtilage when the building was placed there) it is not considered that this is permitted development what is important to note is that part E.4 'interpretation of Class E' states that "purpose incidental to the enjoyment of the dwellinghouse as such includes the keeping of poultry, bees, pet animals, birds or other livestock for the domestic needs or personal enjoyment of the occupants of the dwellinghouse".

As such, it is accepted that such uses are expected within private gardens and generally with no specific restrictions (in terms of planning control). For example, there would be nothing preventing the keeping of animals within a domestic garden. However, it is important to note that this does not mean that matters cannot be addressed outside of planning control via means available to other enforcement routes (such as Environmental Health). Whilst the concerns raised are noted, the matter for consideration here is can any material planning harm be identified such that would justify a refusal and, based upon the assessment above and the fallback position of permitted development/lack of restrictions on private gardens (in planning terms) this cannot be identified.

It should be noted that the shed will be conditioned for use for purposes ancillary to the dwellinghouse. Objections suggest that the shed has been used for business purposes. If a business use constitutes a material change of use (as opposed to ancillary) is a matter of fact and degree and this is a matter which would be dealt with by Planning Enforcement in the event that there was any breach and that the use (business use or otherwise) was found to tip the balance.

It is not considered reasonable to attach any conditions relating to noise, odour or continued maintenance of the land. This is partly due to the fallback positions outlined above but also that these factors can be interpreted differently and so fail the tests on being reasonable and enforceable.

In other matters, neither the scale or location of the shed nor the fencing present with any issues relating to overbearing impacts, loss of light or overshadowing nor are there any privacy issues. Subject to a condition to retain the site as per the approved plans and ancillary use for the shed there are on balance no significant residential amenity concerns and the development accords with Policies LP14 and LP37 of the Local Plan to 2036.

*Flood risk

The site is wholly within Flood Zone 1 as per the most recent Environment Agency Flood Risk Maps and Data. Development of this nature is acceptable within Flood Zone 1 and does not require the submission of a Flood Risk Assessment as per the NPPF (2024) due to the scale of the site, nature of development or vulnerability of use. A small section to the south-west is subject to surface water flood risk but this is not covered by built development.

Overall, it is not considered that there would be a significant risk of flooding or surface water run-off implications and the development broadly accords with Policies LP5 and LP15 of the Local Plan to 2036 in this regard.

*Biodiversity

Policy LP30 of the Local Plan requires a development to ensure no net loss of biodiversity and achieve a net gain where possible.

As well as the above (and separate from the requirements of LP30) qualifying new development is subject to Biodiversity Net Gain legislation pursuant to the Environment Act 2021. This means that a 10% statutory Biodiversity Net Gain (BNG) is required with the hierarchy of onsite provision; mixture of on-site and off-site provision; and the last resort of statutory biodiversity credits unless it can be demonstrated that the development would be exempt.

In this case, biodiversity net gain does not apply, as this is a retrospective proposal made under section 73A, so the opportunities for identifying the pre-commencement baseline value and gain, impose controls or evaluation of habitats have been lost.

It could be argued that some measures for enhancement could be included (bat boxes, bird boxes etc) but, given the nature of the development and the value of the surroundings (there are several mature trees which are unaffected by the development), it is considered that there is ample provision in the vicinity (given that this is a residential area) and opportunities for enhancements are minimal.

Overall, having regard to the above, Officers are satisfied that the development is broadly compliant with Policy LP30 of the Local Plan to 2036.

*Impact on Trees

There are some trees within and adjacent to the site which are not afforded formal protection but which do contribute to the verdant character of the area. Given that this application is retrospective there is no scope for providing protection to the trees. However, given the nature of the development it is not considered that it has, nor will result in harm to the trees.

The development is considered to be acceptable with regard to its impact on trees and therefore accords with Policy LP31 of the Local Plan to 2036.

*Conclusion

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.

The proposed development is considered to be compliant with the relevant national and local policy as it is acceptable in principle, would be visually acceptable and would not be harmful in terms of residential amenity, flood risk, ecology or impact on trees.

Having regard to all relevant material considerations the proposed development is considered to comply with Policies LP2, LP5, LP11, LP12, LP14, LP15, LP30 and LP31 of Huntingdonshire's Local Plan to 2036 and consequently, it is recommended that planning permission be granted, subject to the imposition of appropriate conditions.

If you would like a translation of this document, a large text version or an audio version, please contact us on 01480 388424 and we will try to accommodate your needs.

CONTACT OFFICER:
Enquiries about this report to **Kevin Simpson**