



**Canal &
River Trust**

Making life better by water

Hinckley & Bosworth Borough Council
Hinckley Hub
Rugby Road
Hinckley
Leicestershire
LE10 0FR

Your Ref 26/00346/FUL

Our Ref CRTR-PLAN-2026-47147

Tuesday 28 July 2026

Dear Gwion Russell,

Proposal: Outdoor paving with timber framed pergola above, festoon lighting and heaters, new 1.8 metre high close board fencing, log store and 0.9 metre high picket fence and gate

Location: Lime Kilns, Watling Street, Burbage, Hinckley

Waterway: Ashby Canal

Thank you for your consultation.

We are the charity who look after and bring to life 2000 miles of canals and rivers. Our waterways contribute to the health and wellbeing of local communities and economies, creating attractive and connected places to live, work, volunteer and spend leisure time. These historic, natural and cultural assets form part of the strategic and local green-blue infrastructure network, linking urban and rural communities as well as habitats. By caring for our waterways and promoting their use we believe we can improve the wellbeing of our nation. The Trust is a statutory consultee in the Development Management process.

Based on the information available our substantive response (as required by the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended)) is the following advice:

The application site is located adjacent to the offside bank of the Ashby Canal, and the paving is to be laid on a grassed area already used to provide outdoor seating for customers. The provision of a paved area and pergola here will provide a more formalised outdoor seating area but should not have any significant effect on the overall character and appearance of the canal conservation area.

It will however be important to ensure that all works to construct the pergola and prepare and lay out the paved area do not adversely affect the adjacent canal bank. The canal wall is likely to be backed with puddle clay (which helps maintain a watertight seal to the canal structure) and this could extend up to 1m behind the canal bank; it is important that this is not excavated as this could increase the risk of leakage from the canal. It is also important that any plant or machinery required for the construction of the paved area or pergola maintains a 2m stand off from the canal edge in order to avoid imposing additional loads on the canal wall which could adversely affect its stability.

As you will be aware, land stability is a material planning consideration and is referred to in paragraphs 187 (e), 196 and 197 of the NPPF and is the subject of more detailed discussion in the NPPG (see <https://www.gov.uk/guidance/land-stability>). We consider that this advice and guidance is clear in identifying that the planning system has a role to play in minimising the risk and effects of land stability on property, infrastructure and the public.

Canal & River Trust Spatial Planning Team

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We appreciate that the issue of land stability can be complex and often also involves other regimes such as Building Regulations and legislation such as the Party Wall Act 1996. However, the NPPF is clear that planning decisions should ensure that new development is appropriate for its location in the context of avoiding unacceptable risks from land instability and being satisfied that a site is suitable for its new use, taking account of ground conditions and land instability.

In particular, paragraph 197 of the NPPF is clear that where a site is affected by land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

We therefore consider that the potential effect of construction operations in proximity to the canal is a material planning consideration and that protective measures should be secured via a planning condition to ensure that the development can be undertaken without creating instability likely to affect the structural integrity of the adjacent canal.

Condition

No plant or machinery shall be operated within 2m of the Ashby Canal unless a method statement for undertaking such works has first been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of all plant and machinery to be operated, and all works to be undertaken and shall identify and incorporate any measures necessary to minimise the risk of adversely affecting the stability of the adjacent Ashby Canal bank during the works. The development shall thereafter only be carried out in accordance with the approved details.

Reason

In the interests of avoiding the risk of creating land instability arising from any adverse impacts from the operation of plant or machinery which could adversely affect the stability of the Ashby Canal bank in accordance with the advice and guidance on land stability contained in paragraphs 187, 196 and 197 of the National Planning Policy Framework and in the National Planning Practice Guidance.

We further consider that construction and other environmental impacts should be managed through the implementation of an appropriately detailed Construction Environmental Management Plan (CEMP). The CEMP should be a bespoke site-specific document and should identify measures to minimise the risk of debris, dust, material and contaminants including silty or otherwise contaminated run-off entering the canal during construction operations in order to ensure that water quality in the canal is not adversely affected.

Condition

No development shall take place until a Construction Environmental Management Plan (CEMP) has first been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include measures to minimise the risk of dust, debris and silty or otherwise contaminated runoff entering the Ashby Canal adjacent to the north-western site boundary during construction operations. The development shall thereafter only be carried out in accordance with the agreed CEMP.

Reason

In order to minimise the risk of contaminants, debris or other material entering the Ashby Canal during construction operations and adversely affecting water quality or wildlife supported by the canal. A pre-commencement condition is necessary as the information is required to inform all construction operations on the site from the outset.

The application form indicates that surface water will discharge to an existing watercourse, and the application drawings indicate that there is an existing rainwater pipe adjacent to the corner of the pergola. It is not entirely clear where surface water is currently directed but we assume it either runs off to the canal or is allowed to infiltrate into the ground. If the Applicant intends to discharge surface water from the paved area to the canal, consent from the Trust should first be sought and further advice can be obtained from the Trust's Utilities Team.

Should planning permission be granted we request that the following **informatives** are appended to the decision notice:

- 1. The Applicant is advised that discharges of surface water to the adjacent Ashby Canal will require the prior consent of the Canal & River Trust. Please note that the Trust is not a land drainage authority, and such discharges are not granted as of right; where they are granted, they will usually be subject to completion*

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of a commercial agreement. The Applicant should contact the Trust's Utilities Team at utilitiesenquiry@canalrivertrust.org.uk to discuss any proposed discharges to the canal.

2. The Applicant is recommended to consider signing up to the Canal & River Trust's Code of Practice for Works Affecting the Canal & River Trust in order to ensure that any potential risks to the adjacent canal infrastructure can be appropriately managed during construction. Please contact the Trust's Infrastructure Services Team at enquiries.TPWNorth@canalrivertrust.org.uk for further advice on the Code of Practice.

Please do not hesitate to contact me with any queries you may have.

Yours sincerely,

Ian Dickinson MRTPI

Area Planner

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<https://canalrivertrust.org.uk/specialist-teams/planning-and-design>

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