

HINCKLEY AND BOSWORTH BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990



Hinckley & Bosworth
Borough Council

**STATEMENT OF CASE ON BEHALF OF THE LOCAL PLANNING
AUTHORITY**

PLANNING APPEAL BY MS Gillian Nicol

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR PROPOSED
WOODEN CATTERY (24/00596/FUL)**

AT:

7 SPRINGFIELD ROAD, HINCKLEY, LEICESTERSHIRE

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE:
24/00596/FUL**

**THE PLANNING INSPECTORATE REFERENCE:
APP/K2420/W/24/3355084**

CONTENTS:

Section 1: Introduction

Section 2: The case for the Local Planning Authority

Section 3: Conclusion

Section 4: Suggested Conditions

APPENDICES:

Appendix 1: HBBC Committee Report

Appendix 2: Committee Meeting Minutes

1.0 SECTION 1: INTRODUCTION

- 1.1 This statement outlines Hinckley and Bosworth Borough Council's statement of case in relation to the appeal against the refusal of full planning permission for the proposed wooden cattery.
- 1.2 The application was refused by Hinckley and Bosworth Borough on 30th September 2024. This statement is in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission.
- 1.3 Please see Appendix 1 (the HBBC Committee Report) for the site description, application description, site history, relevant policies, all of which have already been set out in the Committee Report and shall not be repeated here for brevity.
- 1.4 The application as shown in Appendix 1 was recommended for approval however members of the Planning Committee overturned officer recommendation on grounds that the proposal is in conflict with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2.0 SECTION 2: THE CASE FOR THE LOCAL PLANNING AUTHORITY

- 2.1 In preparing this statement the Council have reviewed the Appellant's Statement of Case (SoC) received on 15th July 2024, the following section comments specifically on this statement expanding upon the Council's full case contained in Appendix 1.
- 2.2 The appellants' statement of case, specifically section 9 states that "It is considered members of the planning committee in reaching their decision have not provided cogent or compelling reasons to substantiate the reason of refusal and it is respectfully requested the appeal is allowed on this basis". As seen within Appendix 2, which details the committee meeting minutes the application was refused based on Policy DM10 of the SADMP. Policy DM10 of the SADMP relates to development and design, the policy sets out that development will be permitted providing that a number of requirements are met. The relevant criteria are listed below:
 - a) 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, air quality (including odour), noise, vibration and visual intrusion;
 - c) It complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features;
- 2.3 The Council consider that the area, Springfield Road, is solely residential in nature and that the introduction of the proposed cattery business would be at odds with the character of the surrounding area. Factors of the business such as visits to and from the site, which would be beyond those anticipated for a solely residential use, would cause disturbance in the area which detracts from the residential nature and creates a detrimental impact to the character of the area alongside impact the neighbouring residential amenity.
- 2.4 In addition to the above it is the view of the Council that the introduction of a cattery within a residential area would create noise and smell pollution which would be out of keeping with and add further detriment the neighbouring residential amenity, when considering the existing quiet and residential nature of the street.

- 2.5 It is acknowledged that there is now an increase in the number of people working from home, however, the operation of a business which involves visiting members of the public to access the rear garden of a property is not a common feature of this residential area. In turn nearby residents would be aware of the comings and goings of customers within an otherwise residential environment which could impact the general enjoyment of, the privacy and/or sense of privacy they currently experience. An outbuilding of a similar scale could be constructed under permitted development, however, its use would need to remain incidental to the dwelling. That is not the case proposed here, whereby the purpose of the outbuilding is the associated business use and it is the business use which is out of character.
- 2.6 Whilst it is acknowledged that within the planning committee report it was considered that there would not be a detrimental impact to the character of the area and neighbouring amenity, the decision is one which is a matter of judgement. In this instance the Council Members were entitled not to accept the professional advice of officers so long as a case could be made for the contrary view, the case of Council Members is set out above. Council Members have a great understanding of local conditions and circumstances and this was voiced within the debate. Furthermore whilst the Council's Environmental Services team did not object to the proposal on neighbouring amenity grounds, this was explained fully within the committee report. Planning Committee came to a different view to the Environmental Health officer, based on the facts of the case as a whole and the site visit. The planning process and assessment of neighbouring amenity matters goes beyond the matters assessed by the Environmental Services team. The concerns of members relating to the introduction of a commercial element within a residential area were clear.
- 2.7 It is considered therefore that the proposal would be in conflict with Policy DM10 and it is considered that cogent and compelling reasons, in line with planning policy, were provided in the overall decision to refuse this proposal.
- 2.8 The Council has no further comments on the appellant's statement of case.

3.0 SECTION 3: CONCLUSION

- 3.1 As set out within the Committee Meeting Minutes (Appendix 2) the application proposal for the wooden cattery is considered unacceptable in terms of its impact on the character of the area and its impact on neighbouring residential amenity. This conflict arises from the introduction of a cattery business within an existing residential area. The proposal is therefore in conflict with Policy DM10 of the Site Allocations and Development Management Policies DPD 2016
- 3.2 It is respectfully suggested that there are no other material planning considerations or other evidence provided within the Appellant's SoC or other submitted information that would provide any development plan policy justification for the development or to indicate that the appeal should not be determined in accordance with the development plan for the area. However, should the Inspector be minded to allow the appeal then it is requested that consideration be given to the imposition of the conditions suggested within Section 4 of this statement.

4.0 SECTION 4: SUGGESTED CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Application Form

Planning Statement

Design and Access Statement

Air Con Specification Details

Site Location Plan

Block Plan

Front Elevation

Rear Elevation

Side Elevation

Garden Plan

Parking Plan

Air Con Specifications

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

3. No more than a total of 8 cats shall be permitted to be on site, in conjunction with the hereby approved cattery business. The unit and cattery business shall remain ancillary to the dwelling, 7 Springfield Road, Hinckley and shall not be occupied, sold or separately leased or let as an independent business unit.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance and to ensure no undue pressure of the local highways network, impacting highway safety in accordance with Policies DM10, DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.

2. All businesses have a duty of care to ensure that any waste produced is handled safely and within the law. All waste produced by a business including (but not limited to) paper, cardboard, cans, retail packing, and food wrappers/waste, is commercial waste. For this reason, it legally has to be discarded in a certain way via a trade waste service or transfer station and cannot be disposed of through the residential service. Please ensure there is adequate space on the property to store the waste containers for the business. Businesses should arrange their own business/trade waste collection service. If you give your waste to someone else you must be sure that they are authorised to take it and can transport, recycle or dispose of it safely.

Appendix 1 – HBBC Committee Report

Planning Committee 24th September 2024
Report of the Head of Planning



Hinckley & Bosworth
Borough Council

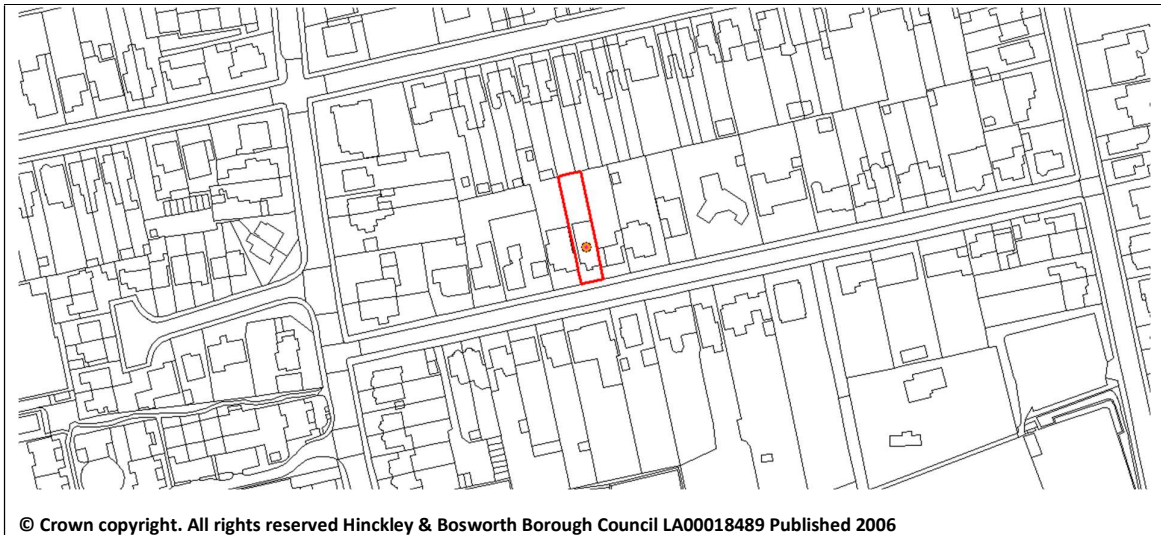
Planning Ref: 24/00596/FUL

Applicant: Ms Gillian Nicol

Ward: Hinckley Castle

Site: 7 Springfield Road, Hinckley

Proposal: Proposed wooden cattery



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1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Head of Planning be given powers to determine the final detail of the conditions.

2. Planning application description

2.1. The application seeks approval for the rear outbuilding and for the use of this outbuilding to be for the use as a cattery. The proposed cattery is for up to 8 cats and proposes two-off street car parking spaces afforded to the business use.

2.2. The following documents were submitted in support of this application;

- Application Form
- Planning Statement
- Design and Access Statement
- Air Con Specification Details
- Site Location Plan
- Block Plan
- Front Elevation
- Rear Elevation
- Side Elevation
- Garden Plan
- Parking Plan
- Air Con Specifications

3. Description of the site and surrounding area

3.1. The application site is 7 Springfield Road, Hinckley, which is a two storey semi-detached property. Springfield Road consists of a mix of two storey detached, two storey semi-detached, and detached bungalows, of a mix of designs and materials. The site benefits from 3 off-street car parking spaces to the front of the site and a large rear garden.

4. Relevant planning history

None

5. Publicity

5.1. The application has been publicised by sending out letters to local residents.

5.2. 8 letters of objection have been received. The objections relate to:

- Springfield Road is not a commercial road.
- Parking concerns, not sufficient
- Any advertisements wouldn't look acceptable in residential area
- Concern over business relate deliveries
- Concern over smell issues from cattery
- Concern over vermin
- Concern over waste management
- Impact on health of nearby neighbours
- Impact on noise from the cattery at night
- Concern of appearance of cattery
- Concern of visual amenity lowering house prices
- Concern over wildlife
- Covenant preventing business use at property

6. Consultation

6.1. HBBC Drainage: No objections

- | | | | | |
|------|------|-------------------|----|-------------------------------------|
| 6.2. | HBBC | Pollution: | No | objections |
| 6.3. | HBBC | Waste Management: | No | objections, note to applicant made. |
| 6.4. | LCC | Highways: | No | objections. |

7. Policy

7.1. Core Strategy (2009)

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- 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) (2023)
- Planning Practice Guidance (PPG)

7.4. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Leicestershire Highways Design Guide

8. Appraisal

8.1. Key Issues:

- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Waste management

Design and impact upon the character of the area

8.2 Policy DM10 of the adopted 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 that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.

8.3 The proposal is for a wooden cattery to be located in the rear garden of the development site. The structure itself is proposed to be constructed of wooden cladding, with two doors and two small windows to the front elevation. The structure is 8.2m in length, 2.4m in height to the highest point, sloping to 2.2m, and 3m in depth. The doors and windows of the structure face towards the rear elevation of the main dwelling (No.7 Springfield Road). It is important to note that the structure itself is already in situ, and is within the criteria set out

within the Town and County Planning (General Permitted Development) Order 2015, Schedule 2, Part 1, Class E, and would be permitted to be in situ as an outbuilding used for the enjoyment of the dwelling.

8.4 The unit is located to the rear of the property and as such would not be highly visible from public vantage points, thus cause no issues of design or impact upon the character of the area. A concern was raised within an objection letter which related to commercial advertisement of the business within a residential street would have detrimental impacts to the character of the area – this however is not part of this application and any advertisement above the permitted size would be required to be subject to a subsequent advertisement consent application to the local authority.

8.5 The proposal is therefore considered to be in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

8.6 Policy DM10 of the adopted SADMP and the adopted Good Design Guide require that development would not have a significant adverse effect of the privacy and/or amenity of nearby residents and occupiers of adjacent buildings.

8.7 The unit itself, as discussed within the design and impact upon the character of the area section of the report, has been established to be within the remits of the General Permitted Development Order 2015. The unit itself is not considered to cause detrimental impacts upon neighbouring amenity in terms of loss of light, loss of privacy, overlooking or overbearing impacts, by way of its location, set at the end of the rear garden of No. 7 Springfield Road, the single storey nature of the structure, and the existing boundary treatments which consist of a 1.8m wooden fence and a mature hedgerow approximately 1.8m in height.

8.8 Concerns have been raised via objection letters from neighbouring residents which related to amenity impacts caused by smell from the use of the outbuilding as a cattery and noise, especially at night, from the cats within the unit.

8.9 Hinckley & Bosworth Borough Council Environmental Health: Pollution department were consulted as part of the proposal, to offer their comments on the proposed cattery at the site. Initial queries were raised relating to the specifications of the air conditioning unit and the specifications of the unit, to allow for a full analysis of the potential impacts. Following the applicant's submission of this information, HBBC Environmental Health confirmed that they have no objections to the proposal.

8.10 Whilst the cattery does introduce the prospect of housing a maximum of 8 cats at any one time, the unit benefits from double glazed windows and is fully insulated, with a concrete sealed floor providing a sufficient degree of sound proofing, significantly limiting any potential noise or smell impacts from the cattery.

8.11 As such the proposal is considered to be in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

8.12 Policies DM17 and DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design and that there is no detrimental impact upon highway safety.

- 8.13 The development site benefits from 3 off-street car parking space to the front of the dwelling, as shown on the 'Parking Plan'. The plan indicates two of the spaces are afforded for customer parking and one would remain for residential, however within neighbour objections it has been noted that the household itself has existing vehicles which often occupy this space.
- 8.14 Leicestershire County Council Highways department have been consulted as part of this proposal. They have confirmed that taking into account the likelihood that associated trips to the site would be outside of the AM/PM peaks and would be staggered as per the applicants planning statement, the likelihood that trips to the site would not be undertaken daily due to the nature of the business, the prevalence of existing on-street car parking and that no recorded personal injury collisions along the entire length of Springfield Road within the last 5 years, would result in the LHA not being able to demonstrate that the proposals would lead to a severe impact on the highway contrary to Paragraph 115 of the National Planning Policy Framework (December 2023) in these site-specific circumstances. As such the proposals are considered to be in general accordance with Policies DM17 and DM18 of the adopted SADMP.

Waste Management

- 8.15 Issues relating to waste management, via neighbour objections have raised concerns over how waste from the proposed cattery business will be managed, including concerns of the collection of trade waste and the storage of such to avoid attracting vermin. HBBC Waste Management were consulted as part of this proposal and responded with no objections to the scheme, subject to a note to the applicant being attached to any decision notice, stating that adequate space must be afforded for waste storage and that waste collection must be arranged by the applicant with a waste service. No condition for further details has been recommended.

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. The Committee must also ensure the same when determining this planning 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. Conclusion

- 10.1. The proposal for a wooden cattery, for up to 8 cats at the property is not considered to cause detrimental impact to the character of the area, it is considered not to cause significant detrimental impacts to neighbouring amenities, and it is considered to not have significant adverse impacts on the highway. As such it is considered that the proposal is in general accordance with Policies DM10, DM17 and DM18 of the adopted SADMP (2016)

11. Recommendation

- 12.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

- 12.2. That the Planning Manager be given powers to determine the final detail of planning conditions.

12.4. Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Application Form
- Planning Statement
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- Garden Plan
- Parking Plan
- Air Con Specifications

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

3. No more than a total of 8 cats shall be permitted to be on site, in conjunction with the hereby approved cattery business. The unit and cattery business shall remain ancillary to the dwelling, 7 Springfield Road, Hinckley and shall not be occupied, sold or separately leased or let as an independent business unit.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance and to ensure no undue pressure of the local highways network, impacting highway safety in accordance with Policies DM10, DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12.5. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. All businesses have a duty of care to ensure that any waste produced is handled safely and within the law. All waste produced by a business including (but not limited to) paper, cardboard, cans, retail packing, and food wrappers/waste, is commercial waste. For this reason, it legally has to be discarded in a certain way via a trade waste service or transfer station and cannot be disposed of through the residential service. Please ensure there is adequate space on the property to store the waste containers for the business. Businesses should arrange their own business/trade waste collection service. If you give your waste to someone else you must be sure that they are authorised to take it and can transport, recycle or dispose of it safely.

Appendix 2 – Committee Meeting Minutes

24/00596/FUL - 7 Springfield Road, Hinckley

Minutes:

Application for wooden cattery.

Three objectors and the applicant spoke on this item.

Notwithstanding the officer's recommendation that permission be granted, members felt that the impact on neighbours and the character of the area would be contrary to policy DM10 of the site allocations and development management policies DPD. It was moved by Councillor Bray and seconded by Councillor Allen that permission be refused. Upon being put to the vote, six members voted for the motion and six voted against the motion to refuse. The chair therefore exercised her right to a casting vote and voted for the motion to refuse. The motion was therefore CARRIED and it was

RESOLVED – permission be refused due to the impact of the proposed cattery on neighbours and upon the character of the area, contrary to policy DM10 of the site allocations and development management policies DPD.