

# **HINCKLEY AND BOSWORTH BOROUGH COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990**



**Hinckley & Bosworth  
Borough Council**

## **WRITTEN STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY**

**PLANNING APPEAL BY MR HUSSEIN ESSAJEE**

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE PROPOSED  
CHANGE OF USE FROM TWO DWELLINGHOUSES CLASS C3 TO CHILDREN'S  
CARE HOME CLASS C2**

**AT:**

**87B AND 87C HIGH STREET, BARWELL**

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE:**

**24/00476/FUL**

**THE PLANNING INSPECTORATE REFERENCE:**

**APP/K2420/W/24/3350799**

**CONTENTS:**

|                                                                                            |           |
|--------------------------------------------------------------------------------------------|-----------|
| <b>Section 1: Introduction.....</b>                                                        | <b>03</b> |
| <b>Section 2: Description of the Appeal Site, the Surrounding Area, and the Proposal..</b> | <b>03</b> |
| <b>Section 3: Site History.....</b>                                                        | <b>03</b> |
| <b>Section 4: National Policies.....</b>                                                   | <b>05</b> |
| <b>Section 5: Local Policies.....</b>                                                      | <b>05</b> |
| <b>Section 6: The Case for the Local Planning Authority.....</b>                           | <b>06</b> |
| <b>Section 7: Conclusions.....</b>                                                         | <b>11</b> |
| <b>Section 8: Conditions.....</b>                                                          | <b>12</b> |
| <b>Section 9: Appendices.....</b>                                                          | <b>16</b> |

1. **INTRODUCTION:**

- 1.1. This statement is to be read in conjunction with the previously submitted Appeal Questionnaire papers, in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission for the change of use of two dwellinghouses (Use Class C3) to a children's care home (Use Class C2) at 87B and 87C High Street, Barwell.

2. **DESCRIPTION OF THE APPEAL SITE, THE SURROUNDING AREA, AND THE PROPOSAL:**

*The Appeal Site:*

- 2.1. The 688sqm appeal site comprises two two-storey, terrace and terrace-end residential dwellings that are located to the southwest of, but within the identified settlement boundary of, Barwell and Barwell High Street Conservation Area. The appeal site is on the southern side of High Street, which is an adopted and classified 'C' road that is subject to a 30mph speed limit.
- 2.2. The wider area is predominantly residential and characterised by two-storey, terraced, residential properties, but there is evidence of commercial uses opposite the site, including a convenience store, an Indian restaurant, and an industrial chemicals wholesaler.

*The Appeal Proposal:*

- 2.3. This appeal proposal seeks full planning permission for the change of use of two dwellinghouses (Use Class C3) into a children's care home (Use Class C2). No external alterations are proposed to the existing properties and two off-street parking spaces are retained for the new proposed use.
- 2.4. The use of the development will provide care for four children under the age of 18 and visiting hours shall be between 9 AM and 6 PM any visits outside of these shall be pre-arranged by the management team.
- 2.5. The appeal documents make clear that staffing levels of the proposal shall depend on the needs of the service users. This can be seen through the discrepancy of the submitted details suggesting only two members of staff will be on the premises during the day, whereas the Appellant confirmed that four members of staff will be present during the day.

3. **SITE HISTORY:**

3.1. **19/00049/FUL**

- Demolition of existing buildings and erection of 4 dwellings (Revised Scheme)
- Permitted
- 04.07.2019

4. **NATIONAL POLICIES:**

4.1 National Planning Policy Framework (NPPF) (December 2023).

4.2 National Planning Practice Guidance (PPG).

4.3 National Design Guide (NDG) (2019).

5. **LOCAL POLICIES:**

5.1 The Development Plan policies referred to for the purposes of the application were:

5.2 Core Strategy (2009):

- Policy 3: Development in Barwell

5.3 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

5.4 Earl Shilton and Barwell Area Action Plan 2006 – 2026 (ESBAAP) (2014):

- Policy 22: Development and Design

5.5 Other Relevant Guidance:

- Barwell High Street Conservation Area Appraisal (2010)
- Good Design Guide (GDG) (2020)
- Leicestershire Highways Design Guide (LHDG) (2022)
- Technical Housing Standards – Nationally Described Space Standards (2015)

5.6 Paragraph 8.5 of the Appellant's Statement of Case refers to the Emerging Local Plan. The Local Planning Authority published its Local Development Scheme on 08 February 2024 that confirmed that the Council is proceeding with an alternative development strategy to that within the previous Emerging Local Plan. The new Draft Local Plan has recently been to Regulation 18 consultation and therefore has little weight in the planning balance.

**6. THE CASE FOR THE LOCAL PLANNING AUTHORITY:**

- 6.1 The appeal proposal was refused at planning application stage on 02 August 2024 via the powers of the Planning Committee for the following reasons:
1. The development would fail to provide sufficient parking provision for the scheme. The Applicant stated at the Planning Committee on Tuesday 30 July 2024 that the proposal would involve four members of staff on duty during the day, which would detrimentally intensify the demand for on-street parking in the area and result in indiscriminate parking issues in the vicinity of the site. This would in turn increase the risk of people parking in spaces that are not appropriate and would increase vehicular movements seeking to find parking spaces in an area where demand for parking already exceeds the supply. Consequently, these effects would harm the proper functioning of the highway and would increase the risk of pedestrian and vehicle collisions in the area, therefore harming highway safety. Therefore, the proposal is contrary to, and in conflict with, Policy DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016), and Planning Policy Framework (December 2023) that seeks to create places that are safe, inclusive, and accessible, and which promote health and well-being, with a high standard of amenity.
  2. The proposal would result in significant adverse impacts to the residential amenity of the future occupants of the scheme as a result of insufficient private outdoor amenity space. Therefore, the scheme is contrary to, and in conflict with, Policy DM10 the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016), the Good Design Guide (2020), and the National Planning Policy Framework. (December 2023), which seeks to create places that promote health and well-being with a high standard of amenity for future users.
- 6.2 It is considered that the main planning issues in relation to this appeal are the adverse effects of the proposed development as a result of its insufficient off-street parking provision and inadequate provision of private outdoor amenity space.
- 6.3 The Appellant's Statement of Case solely relies on the Officer's recommendation within the Committee Report, the planning permission 19/00049/FUL to justify their appeal proposal, and the criticism of the Planning Committee's determination of the planning application. These matters are addressed within this Statement of Case.
- 6.4 Firstly, and importantly, contrary to the assertions of Paragraph 7.1 of the Appellant's Statement of Case, the decision to refuse planning application 24/00476/FUL was a matter of judgement, and Council Members, who have a greater understanding of local conditions and circumstances, are entitled not to accept the professional advice of Officers. Therefore, the refusal of this appeal proposal was not unreasonable.

- 6.5 Ultimately, Paragraph 134 of the NPPF states that, *“Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.”*

Off-Street Parking Provision:

- 6.6 Paragraph 130(f) of the NPPF requires planning decisions to ensure that developments, *“Create places that are safe, inclusive and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.”*

- 6.7 Paragraph 111 of the NPPF states that local parking standards for residential and non-residential development should take into account:

- a) The accessibility of the development
- b) The type, mix, and use of the development
- c) The availability of and opportunities for public transport
- d) Local car ownership levels
- e) The need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emissions vehicles.

- 6.8 Policy DM18 of the SADMP states that:

*“All proposals for new development will be required to provide an appropriate level of parking provision justified by an assessment of the site location, type of housing, other modes of transport available (e.g. public transport and cycle provision) and appropriate design.”*

- 6.9 Part 4 (Highway Requirements) of the Leicestershire Highway Design Guide (LHDG) (2022) confirms that Use Class C2 uses for residential institutions should provide a minimum of one space per three bedrooms plus one car space for each member of staff on site. This was confirmed by the Local Highway Authority (LHA) within their response to the appeal proposal on 11 June 2024.

- 6.10 As highlighted by the LHA, and at Paragraph 8.25 of the Committee Report, the proposal did not provide sufficient off-street parking provision in accordance with the Leicestershire Highway Design Guide (LHDG) and therefore Policy DM18 of the SADMP. The Appellant has not sought to refute this.

- 6.11 Although the LHA did not consider the development to have an unacceptable impact on the surrounding area, this response was based on the Appellant's confirmation that there would only be two members of staff on site on duty during the day. However, the Appellant has since stated at the Planning Committee that the proposal has four members of staff on duty at the site during the day.

- 6.12 Given the Appellant has submitted their draft speech to the Planning Committee within this appeal process, it is clear that this statement was not in error and demonstrates that the Appellant has deliberately misinformed the LHA and the LPA prior to the scheme's determination at Planning Committee.

- 6.13 In light of this information, and in accordance with Part 4 of the LHDG, the appeal proposal should provide five off-street vehicular parking spaces. Consequently, the appeal scheme provides less than half the required provision of off-street parking provision and detrimentally intensifies the demand for on-street parking in the area, which is in conflict with the LHDG and Policy DM18 of the SADMP.
- 6.14 Notwithstanding this, Paragraph 7.7 of the Appellant's Statement of Case states:
- "It is difficult to establish precise staffing levels at care facilities for children as these are dictated by the specific needs of the occupants at any point in time."*
- 6.15 This statement alone confirms that the Appellant has failed to demonstrate that there is sufficient off-street parking for the development. This comment also acknowledges that the Appellant does not know how much off-street parking their development requires, and this issue is heightened by the contradictions within their submissions throughout the planning process and at Planning Committee.
- 6.16 In light of the above, although the Appellant has suggested at Paragraph 7.10 of their Statement of Case that a travel plan could be secured via planning condition, a travel plan in these site-specific circumstances is does not meet the relevant tests for planning conditions.
- 6.17 This is because the Appellant has failed to confirm the necessary parking provision that is required for the development, and the Appellant has not suggested that there are any other suitable locations in their ownership within the vicinity of the site for off-street parking to support their proposal. Moreover, the provision of on-street parking is not considered to be precise nor enforceable. Therefore, securing a travel plan via planning condition does not address the current reasons for refusal, nor make the development acceptable.
- 6.18 Furthermore, and in spite of the Appellant's assertions, the Appellant has not sought to appropriately justify their level of parking provision through an assessment of the site location, type of housing, or other modes of transport available, which is contrary to Policy DM18 of the SADMP. Instead, the Appellant has highlighted that there are, "Some," parking restrictions in the vicinity of the site and that there is a, "Good amount of on-street parking," on roads, "Near," to the appeal site. These vague assertions are not considered to be sufficient justification for the under provision of off-street vehicular parking.
- 6.19 Whilst the Inspector will undertake a site visit to the appeal site, to appreciate the existing poor on-street parking situation, the Local Planning Authority has provided five historic Google Street View images of High Street within the vicinity of the appeal site between July 2011 and April 2023 within Appendix A to support the Inspector's determination of this appeal.
- 6.20 As seen from Figures 01 to 05 within Appendix A, the significant on-street parking issues along High Street have been prevalent for over ten years and there are limited opportunities for on-street parking.

- 6.21 It is also evident that there is a clear demand for parking in the area that already exceeds the supply. For example, the majority of the residential properties closest to the appeal site and the adjacent convenience store and Indian restaurant do not benefit from off-street parking, which all contribute to the parking pressures in the area. Whilst there are a couple of on-street spaces along High Street, there is no guarantee that these would always be available, particularly given the lack of off-street parking provision and the existing demand for parking in the area.
- 6.22 Whilst the existing use of the site as two Use Class C3 dwellings is likely to create a level of demand for parking, the appeal proposal is not for a Use Class C3 use and the Appellant has not refuted the fact that the scheme provides insufficient off-street parking, which has been identified by the Local Highway Authority, the Local Planning Authority, and the Planning Committee. This issue is exacerbated by the Appellant's inability to confirm the off-street parking requirements of their development.
- 6.23 In summary, the Appellant has failed to provide sufficient off-street parking provision for the proposal and has failed to adequately justify the acceptability of such an under provision in these site-specific circumstances. These issues are exacerbated by the Appellant's inability to confirm the level of staff provision for the proposal.
- 6.24 Given the above, and without substantive evidence to the contrary, the proposal results in a detrimental intensification of the demand for on-street parking in an area where demand for parking already exceeds the supply. This increased demand for vehicles, including visitors, seeking to park and manoeuvre along the highway increases instances of indiscriminate and inconsiderate parking in the area, and collectively these effects harm the proper functioning of the highway, increase the risk of pedestrian and vehicle collisions in the area, and ultimately harm highway safety. Therefore, the development is contrary to, and in conflict with, Policy DM18 of the SAMDP, the LHDG, and the NPPF, which seek to create places that are safe, inclusive, and accessible, and which promote health and well-being, with a high standard of amenity.

Private Outdoor Amenity Space:

- 6.25 Paragraph 123 of the NPPF states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 6.26 Paragraph 14.2 of the SADMP states:
- “New development should be located and designed in such a way that the amenity of both existing residents and occupiers are fully considered when assessing planning applications. The amenity of future occupiers of any proposed development is also an important design consideration to avoid any future conflicts over incompatible uses.”*

- 6.27 The Good Design Guide provides the minimum space standards for private outdoor amenity areas for residential properties. It is noted that this guidance is for all residential properties and is not limited to Use Class C3 structures. To comply with the Good Design Guide, two-bedroom houses should provide a minimum of 60sqm of private outdoor amenity space with a minimum length of 7m; this increases to 80sqm for three-bedroom properties.
- 6.28 As per Paragraph 8.18 of the Committee Report, the proposal provides a substandard level of private outdoor amenity with a total footprint of 69.5sqm and a depth of 6.6m. This does not meet the minimum requirements of the Good Design Guide, and the Appellant has not sought to disagree with this fact.
- 6.29 However, in light of planning permission 19/00049/FUL, Paragraph 7.6 of the Appellant's Statement of Case suggests that the under provision of private amenity space is, "*Immaterial*," to the appeal proposal. The Local Planning Authority strongly disagree with this comment.
- 6.30 The under provision of private outdoor amenity space was approved via planning application 19/00049/FUL for two Use Class C3 properties. It is noted that there is limited justification for this within the Officer's Report for this planning permission but Paragraph 8.19 of the Committee Report for the refused planning application 24/00476/FUL confirms that the appeal site is within 500m of a park.
- 6.31 Whilst this justification may be sufficient for Use Class C3 properties, this appeal proposal is not a Use Class C3 use. This is a significant material difference between the appeal proposal and the approved scheme.
- 6.32 As confirmed by at Paragraph 7.5 of the Appellant's Statement of Case, the children who are likely to reside at the appeal site, "*Fall into the category of vulnerable and would under no circumstances leave the premises without adult supervision.*" Therefore, although there is public open space is close to the site, this is not the crucial limiting factor to its accessibility to the future occupiers of the development.
- 6.33 Consequently, the inaccessibility of the public open space heightens the need for appropriate private outdoor amenity space with the appeal site in order to create places that are safe, inclusive, and accessible, and which promote health and well-being with a high standard of amenity for existing and future users.
- 6.34 By virtue of these factors, the Appellant has failed to suitably justify why the substandard provision of private outdoor amenity space is acceptable for a Use Class C2 use for the care of, "*Vulnerable*," children in these site-specific circumstances. As a result, the proposal results in significant adverse impacts to the residential amenity of the future occupants of the scheme as a result of insufficient private outdoor space and the failure to promote health and well-being with a high standard of amenity for future occupiers of the development.

**7. CONCLUSION:**

- 7.1 To summarise, Section 38 (6) of the Planning and Compensation Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 indicates that planning permission should be granted for development proposals that accord with the Development Plan unless material considerations indicate otherwise.
- 7.2 Whilst it is acknowledged that the Development Plan was adopted prior to the publication of the latest NPPF, as a result of the strong consistency with the wording of the NPPF, due weight should be given to the policies within the Development Plan, such as Policies DM10, and DM17 of the SADMP, in accordance with Paragraph 225 of the NPPF.
- 7.3 As Paragraph 11(d) of the NPPF has been triggered, planning permission should be granted to development unless adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
- 7.4 The development does not provide adequate parking provision for its proposed use and consequently results in significant harm to the proper functioning of the highway and harms highway safety. Therefore, the proposal is in conflict with the LHDG and Policy DM18 of the SADMP, which require development to provide an appropriate level of parking. Therefore, the development does not comply with the NPPF, which seeks to create places that are safe, inclusive, and accessible, and which promote health and well-being, with a high standard of amenity. This attracts significant weight in the planning balance.
- 7.5 In addition, the proposal results in significant adverse impacts to the residential amenity of the future occupants of the scheme as a result of insufficient private outdoor space and the failure to promote health and well-being with a high standard of amenity for future occupiers of the development. Therefore, the development is in conflict with Policy DM10 of the SADMP and Section 12 of the NPPF, which both seek to promote health and well-being with a high standard of amenity. This attracts significant weight in the planning balance.
- 7.6 Although the scheme provides housing to meet the needs for different groups in the community via a Use Class C2 development, the proposal does not increase the provision of housing within the area, and it fails to promote health and well-being with a high standard of amenity. Therefore, the significant harm of the development significantly and demonstrably outweighs the benefits of the proposal when assessed against the Development Plan and the NPPF as a whole.
- 7.7 There are no other material considerations to indicate that the proposal should be determined other than in accordance with the adopted Development Plan in this case. With regard to the information contained in this statement and that submitted with the Appeal Questionnaire, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed.

7.8 However, if the Inspector is minded not to do so, the Local Planning Authority requests the inclusion of the following conditions and reasons suggested below.

8. **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 received by the Local Planning Authority as follows:

- Existing Layout and Elevations 141-01 (submitted: 15.05.2024)
- Proposed Layout and Elevations 141-02A (submitted: 15.05.2024)
- Proposed Site Location and Block Plan 131-03A (submitted: 01.07.2024)

**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. The development hereby permitted shall not be occupied until such time as the parking facilities have been implemented in accordance with the proposed Site Location and Block Plan 131-03A (submitted: 01.07.2024). Thereafter, the onsite parking provision shall be kept available for such uses in perpetuity.

**Reason:** To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

9. **APPENDICES:**

9.1 (See separate documents)

9.2 **Appendix A:** Part 4 (Highway Requirements) of the Leicestershire Highway Design Guide (2022)

9.3 **Appendix B:** Historic Google Street View Images of the Appeal Site