

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 DANIEL SWIFT

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE DEMOLITION
OF EXISTING BARN AND CONSTRUCTION OF TWO DWELLINGS AND
ASSOCIATED PARKING**

AT

**LAND TO THE SOUTH OF 59 KENNEL LANE, WITHERLEY
ATHERSTONE, LEICESTERSHIRE, CV9 3LJ**

HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE

25/00019/FUL

THE PLANNING INSPECTORATE REFERENCE

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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 construction of two dwellings following the demolition of the existing barn at land to the south of 59 Kennel Lane, Witherley.

2. DESCRIPTION OF THE APPEAL SITE AND THE PROPOSAL

- 2.1. The description of the appeal proposal and the appeal site are detailed at Sections 2 and 3 of the Delegated Officer Report ('Delegated Report') respectively.

3. SITE HISTORY

- 3.1. The relevant planning history for the appeal site is detailed at Section 4 of the Delegated Report.

4. POLICIES

- 4.1 The relevant local and national planning policies and legislation in the determination of this appeal proposal are detailed at Section 7 of the Delegated Report.

5. THE CASE FOR THE LOCAL PLANNING AUTHORITY

- 5.1 The planning application was refused on 17 December 2025 under delegated powers for the following reasons:

1. The scheme represents new residential development in the designated open countryside that fundamentally and detrimentally alters the rural character of the surrounding area through exacerbation of ribbon development in this location. By virtue of its size, scale, siting, layout, design, and architectural detailing, the development fails to preserve or respect the existing character of the site and the surrounding area, including the historic isolated character of the built form associated with the former Atherstone Hunt Complex, and the positive characteristics of Kennel Lane as a barrier between built form and the designated open countryside. The proposal therefore results in significant harm to the character of the site, the surrounding area, the intrinsic value, beauty, open character, and landscape character of the open countryside, as well as the Witherley and Surroundings Landscape Sensitivity Area, and the wider Sence Lowlands Landscape Character Area. This significant adverse impact is compounded by the visual prominence of the development from the public highway and Public Footpath T27.

As a result, the development is contrary to, and in conflict with, Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Chapters 12 and 15, and Key Policy Paragraphs 129, 135, and 139 of the National Planning Policy

Framework (2024), the National Design Guide (2021) and the Good Design Guide (2020). The permanent and adverse impacts of the scheme significantly and demonstrably outweigh the potential benefits of the development in these site-specific circumstances and in accordance with Key Policy Paragraph 139 of the NPPF, the development is refused.

- 5.2 It is therefore considered that the main planning issues in relation to this appeal are the adverse effects of the proposed development on the character of the area.

The First Reason for Refusal: Harm to the Character of the Area

- 5.3 The Local Planning Authority's assessment of the appeal proposal regarding the principle of development and its impact on the character of the area, including the relevant local and national planning policies, are detailed at Pages 4 to 6, and Pages 7 to Page 11 respectively. The Appellant has not sought to engage with the Local Planning Authority's assessment of the scheme's significant and detrimental impact on the character of the area within the Delegated Report.
- 5.4 Paragraph 8.16 of the Delegated Report confirms that the scheme would not accord with the Development Plan in principle. This has not been refuted by the Appellant. Given the above, it remains the Council's position that the provision of two new residential properties in this location would be unacceptable in principle, subject to the assessment of all other material considerations.
- 5.5 As confirmed at Paragraph 8.26 of the Delegated Report, four of the National Planning Policy Framework (NPPF)'s Key Policy Paragraphs are applicable to the determination of this current appeal. Three of these Key Policy Paragraphs (129, 135, and 139) relate to good design guide and form part of the reason for refusal of this appeal proposal. The Appellant has not sought to refer to or engage with these Key Policy Paragraphs within the justification for their appeal.
- 5.6 Instead, the Appellant has referred to the development of 50 dwellings to the north of the Atherstone Hunt Complex at land east of Kennel Lane, which was approved via 22/01190/OUT, to justify their appeal proposal.
- 5.7 Importantly, there are significant and material differences between the benefits associated with the provision of 50 dwellings, which included affordable housing provision and financial contributions, and the construction of two dwellings. Given the above, no positive weight should be given to this material consideration in the determination of this appeal.
- 5.8 In addition, the Appellant's position fails to acknowledge the Local Planning Authority's assessment of the appeal proposal in light of this previously approved development. As confirmed on Page 9 of the Delegated Report, the degradation of the visual appreciation of the isolated historic character of the Atherstone Hunt Complex and the visual barrier of Kennel Lane between Witherley and the designated open countryside heightens the importance of the northbound public views of Kennel Lane and the Atherstone Hunt Complex and their positive

contributions to the character of the surrounding area. The Appellant has not sought to refute the positive contributions of Kennel Lane and the Atherstone Hunt Complex to the character of the surrounding area.

- 5.9 Ultimately, to permit further residential development along this side of Kennel Lane would, *“Fundamentally alter the landscape character and setting of this section of Kennel from semi-rural to a predominantly urban characteristic,”* as described by the Appellant at Paragraph 21 of their Appeal Statement.
- 5.10 In spite of this, the Appellant refers to the redevelopment of the Atherstone Hunt Complex at Appendix 6 of their Appeal Statement and suggests that, *“The appeal design solution carries through the ethos that underpins the conversion of the former Hunt complex”.*
- 5.11 Firstly, the re-use of existing buildings is a significantly and materially different proposal to the provision of two new independent residential properties.
- 5.12 Moreover, the Appellant’s comments fail to have any regard to the Council’s assessment of the design of the current appeal development on Page 10 of the Delegated Report. As confirmed within the Delegated Report, by virtue of the proposed size, scale, siting, layout, design, and architectural detailing of the proposed development, the two dwellings would fail to bare any resemblance to, and would not respect, the character of the site and the built form of Atherstone Hunt Complex. It is noted that the Appellant has not sought to refute the Local Planning Authority’s assessment on the design and appearance of the development within their Appeal Statement.
- 5.13 In light of the above and the Council’s assessment of the scheme within the Delegated Report, the scheme would represent new residential development in the designated open countryside that would fundamentally and detrimentally alter the rural character of the surrounding area through the exacerbation of ribbon development in this location. By virtue of its size, scale, siting, layout, design, and architectural detailing, the development would fail to preserve or respect the existing character of the site and the surrounding area, including the historic isolated character of the built form associated with the former Atherstone Hunt Complex, and the positive characteristics of Kennel Lane as a barrier between built form and the designated open countryside.
- 5.14 The proposal therefore would result in significant harm to the character of the site, the surrounding area, the intrinsic value, beauty, open character, and landscape character of the open countryside, as well as the Witherley and Surroundings Landscape Sensitivity Area, and the wider Sence Lowlands Landscape Character Area. This significant adverse impact is compounded by the visual prominence of the development from the public highway and Public Footpath T27. As a result, the scheme would not be well designed and would fail to reflect local design policies and government guidance on design.

Material Considerations Raised by the Appellant

- 5.15 To justify their appeal proposal, the Appellant relies on the material consideration of fall-back positions and previous planning decisions.

Existing Agricultural Barn

- 5.16 Paragraph 17 of the Appellant's Appeal Statement suggests that the existing agricultural barn could be converted into a residential use, which would represent a fall-back position of this current appeal.
- 5.17 Firstly, the re-use of an existing building is a significantly and materially different proposal to the provision of two new independent residential properties. In addition, such conversion works would require approval from the Local Planning Authority either via a full planning application or a prior approval application under Class Q of Part 3 of the Town and Country (General Permitted Development) (England) Order 2015 (as amended) ('GPDO'). As the acceptability of these works has not been confirmed, this would not represent a fall-back position that would attract any positive weight within the determination of this appeal.
- 5.18 Ultimately, given the poor state of the existing barn, the Local Planning Authority would not consider that the building is in a structurally sound position that would be capable of conversion without significant rebuild or alteration without sufficient information being submitted by the Appellant to the contrary. Given the size of the existing barn, it is also highly unlikely that the existing barn would be capable of complying with the nationally described space standards or providing a high level of residential amenity to the future occupiers of this hypothetical scheme.
- 5.19 As such, it is unlikely that such a proposal would be acceptable to the Local Planning Authority due to the scheme's conflict with Policies DM10 and DM15 of the adopted Site Allocations and Development Management Policies Development Plan Document ('SADMP') and Paragraphs Q.1(j) and (o) of Class Q of the GPDO. By virtue of these factors, the fall-back position of converting the existing agricultural barn into a residential use within the appeal site would not attract any positive weight within the determination of this appeal.

Appendix 1

- 5.20 Appendix 1 relates to the appeal decision against the refusal of 23/01229/OUT at land east of The Common, Barwell. Based on this appeal decision, Paragraph 11 of the Appellant's Appeal Statement states that the policies within the adopted Core Strategy are out of date.
- 5.21 Whilst the Appellant has suggested that this is a significant material consideration within the determination of this appeal, the Local Planning Authority did not rely on any policies within the adopted Core Strategy to refusal 25/00019/FUL.

- 5.22 Moreover, Paragraph 10 of this Appeal Decision confirms that the weight attributed to Development Plan Policies within this previous appeal was based solely on the fact that the parties agreed within the appeal that, *“The Council can only demonstrate a 3.55-year supply,”* of land for housing.
- 5.23 The Supplemental Statement of Common Ground within this previous appeal (cf. Appendix A), confirmed that this position was agreed only for the purposes of that specific appeal based upon the Five-Year Housing Land Supply (5HYLS) Statement from 01 April 2023.
- 5.24 Therefore, the housing land supply position, and the resultant weight attached to the Council’s Development Plan Policies within this previous appeal at Appendix 1 of the Appellant’s Statement does not reflect the current five-year housing land supply position of the Council and would not be considered to be an appropriate basis to determine the current appeal on. Importantly, every planning proposal must be determined on its own merits.
- 5.25 This is a position shared by the Inspector within the determination of the appeal against the refusal of 24/00322/FUL (cf. Appendix B). Paragraph 26 of this previous appeal decision states:
- “I do not have the full details and background, but the presented appeals and supporting evidence raise and discuss similar issues to those above, as well as housing land supply and self and custom build provision. However, they are not directly related to, or seen in the proximity of, the appeal site, and some seek a greater quantum of development and are therefore materially different from the appeal scheme. For these reasons, I have allocated limited weight to these decisions and supporting information.”*
- 5.26 Given the above, no positive weight should be given to this material consideration in the determination of this appeal.
- Appendices 2, 3, and 4*
- 5.27 Appendices 2, 3, and 4 relate to provision of rear extensions to 57 and 59 Kennel Lane, Witherley adjacent to the appeal site, alongside a minor extension to the residential garden areas of these two properties. As confirmed at Paragraph 3.3 of the Delegated Report, the appeal site was previously approved within 22/00660/FUL to be surfaced with gravel for off-street parking with these two existing dwellings, but the surfacing and parking arrangements were subsequently removed from the scheme via 22/01232/CONDIT.
- 5.28 Paragraph 16 of the Appellant’s Statement suggests that the approval of this gravel surfacing represents, *“A legitimate fallback position in terms of the consideration of the current appeal.”* This Paragraph then refers to case law regarding fall-back positions.
- 5.29 It is noted that the Appellant has not sought to confirm what fall-back position these existing planning permissions offer to justify the current appeal proposal.

- 5.30 In the first instance, the works to two existing residential properties would not be comparable to the current appeal's proposal for the provision of two new independent dwellings. Given the significant and material differences between the works at 57 and 59 Kennel Lane and those proposed within the current appeal site, these planning permissions would not attract any positive weight in the determination of this appeal.
- 5.31 Furthermore, the works in the appeal site were removed from the approved development to the existing residential properties by 23/01232/CONDIT, which has since been constructed. In light of this, there is no likelihood or a real prospect of the appeal site being utilised for its approved use as off-street parking for the two existing dwellings. Therefore, the use of the site as off-street parking for 57 and 59 Kennel Lane would not represent more than a theoretical fall-back position and would therefore not attract any positive weight in the determination of this appeal.
- 5.32 Notwithstanding this, the use of a site for off-street parking for two existing dwellings would not justify the significant intensification of the use of the appeal site for the construction of two new independent dwellings in these site-specific circumstances.
- 5.33 In light of the above, no positive weight should be given to the works at the existing residential properties 57 and 59 Kennel Lane within the determination of this appeal in these site-specific circumstances.

6. CONCLUSION

- 6.1 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.
- 6.2 In the determination of this appeal, the 'tilted' balance in Paragraph 11(d) of the National Planning Policy Framework ('NPPF') would be triggered whereby planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. Key Policy Paragraphs 115, 129, 135, and 139 of the NPPF would apply in these site-specific circumstances, in accordance with Footnote 9 of the NPPF.
- 6.3 To justify their development, the Appellant has solely relied on previous planning decisions for extensions to existing residential properties at 57 and 59 Kennel Lane, for the conversion of the agricultural buildings at the Atherstone Hunt Complex, and for the provision of major residential developments in the Borough.

- 6.4 The Local Planning Authority's position is that there are significant and material differences, including in relation to their size, scale, siting, layout, design, location and associated planning benefits, between these previous developments and the current appeal proposal for two new independent residential dwellings. In addition, the Appellant has failed to demonstrate that they benefit from any more than theoretical fall-back positions, and, crucially, none of these fall-back positions would justify the provision of two new independent dwellings in these site-specific circumstances. Given the above, no positive weight should be given to the material considerations raised by the Appellant within the determination of this appeal.
- 6.5 Paragraph 27 of the Appellant's Appeal Statement suggests that minor residential schemes can carry similar positive planning weight as larger residential schemes. This is an unsubstantiated claim that is strongly refuted by the Local Planning Authority. This misguided statement also fails to have any regard to the Council's assessment of the weighting of the planning benefits of the appeal detailed on Pages 14 and 15 of the Delegated Report.
- 6.6 Importantly, the Appellant has not sought to highlight any further planning benefits for the scheme, nor have they sought to refute the Council's weighting of the identified benefits in the planning balance.
- 6.7 The scheme would represent new residential development in the designated open countryside that would fundamentally and detrimentally alter the rural character of the surrounding area through exacerbation of ribbon development in this location. By virtue of its size, scale, siting, layout, design, and architectural detailing, the development would fail to preserve or respect the existing character of the site and the surrounding area, including the historic isolated character of the built form associated with the former Atherstone Hunt Complex, and the positive characteristics of Kennel Lane as a barrier between built form and the designated open countryside.
- 6.8 The proposal therefore would result in significant harm to the character of the site, the surrounding area, the intrinsic value, beauty, open character, and landscape character of the open countryside, as well as the Witherley and Surroundings Landscape Sensitivity Area, and the wider Sence Lowlands Landscape Character Area. This significant adverse impact is compounded by the visual prominence of the development from the public highway and Public Footpath T27. As a result, the scheme would not be well designed and would fail to reflect local design policies and government guidance on design. This significant harm would attract significant negative weight in the planning balance.
- 6.9 The Appellant has not sought to engage with or refute the Local Planning Authority's assessment of the positive contributions of Kennel Lane and the Atherstone Hunt Complex to the character of the area, nor the incongruous design of the appeal development and its detrimental impact on the character of the site and the surrounding area, nor the visual prominence of the scheme from the public highway and Public Footpath T27.

- 6.10 As a result, the development would be contrary to, and in conflict with, three of the four applicable Key Policy Paragraphs within the National Planning Policy Framework (2024), Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), the National Design Guide (2021) and the Council's Good Design Guide (2020). As a consequence of all these factors, the permanent and adverse impacts of the scheme would significantly and demonstrably outweigh the potential benefits of the development when assessed against the policies in the Framework taken as a whole in these site-specific circumstances.
- 6.11 In accordance with Paragraph 11(d) and Key Policy Paragraph 139 of the National Planning Policy Framework, it is therefore requested that the appeal is dismissed
- 6.12 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. 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.

7. 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:

- External Works Layout (9842 03) (submitted: 11.11.2025)
- Proposed Plans (9842 02) (submitted: 09.01.2025)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. Prior to the commencement of development, a scheme for the investigation of any potential land contamination on the site shall be submitted in writing to, and approved in writing by, the Local Planning Authority, which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details, and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. Upon completion of the approved remediation works, a Verification Report shall be submitted to, and approved in writing by, the Local Planning Authority. The Verification Report shall include details of the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the Verification Report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. If during development contamination not previously identified is found to be present at the site no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to, and approved in writing by, the Local Planning Authority, which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. Prior to the commencement of any works above foundation level, a Biodiversity Enhancement Plan shall be submitted in writing to, and approved in writing by, the Local Planning Authority.

The Biodiversity Enhancement Plan shall include, but not be limited to, at least two woodcrete bat boxes, two woodcrete/integrated bird boxes and two bee bricks with the makes, models, and their locations, alongside the planting of hedgerows and trees of native species of local provenance and species to attract pollinating insects as identified in the RHS 'Plants for Pollinators' database. Hedgerow mixes should include: 80% hawthorn (*Crataegus monogyna*), plus any one or more of the following: field maple (*Acer campestre*), dogwood (*Cornus sanguinea*), dog rose (*Rosa canina*) and holly (*Ilex aquifolium*).

Any enhancement measures need to be shown on all relevant submitted plans. All works are to proceed strictly in accordance with the approved scheme

Reason: To enhance protected and priority species and habitats in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. Prior to the commencement of any works above foundation level, representative sample of the types and colours of materials to be used on the external elevations of the structures hereby permitted shall be submitted in writing to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. No part of the development hereby permitted shall be occupied until such time as the access arrangements and the parking and turning facilities as shown on External Works Layout (9842 03) (submitted: 11.11.2025) have been implemented in full and thereafter shall be kept available for such use in perpetuity.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner and 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, in the interests of general highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).

9. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 11 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).

10. Prior to the first occupation of the development hereby permitted, a scheme of hard and soft landscaping works, including boundary treatments, for the site including an implementation scheme, shall be submitted in writing to, and approved in writing by, the Local Planning Authority.

The scheme shall be carried out in full accordance with the approved landscaping scheme in the first planting and seeding seasons following the occupation of the development or the completion of the development, whichever is sooner.

The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period, any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. Notwithstanding the provisions of Classes A, AA, B, and E of Part 1 of Schedule 2 of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

Reason: To protect the character of the surrounding area and to safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. The development hereby approved shall be implemented in strict accordance with the measures (Mitigation for Bats, Method of Working) stated within the Preliminary Bat Roost Assessment and Bird Survey Report completed by (RICS on, October 2025) and the supporting External Works Layout (Dwg No. 9842 03).

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. APPENDICES

- 9.1 (See separate documents)

- 9.2 **Appendix A** Supplementary Statement of Common Ground for Appeal
APP/K2420/W/24/3348487
- 9.3 **Appendix B** Appeal Decision – The White House, Bosworth Road,
Wellsborough (APP/K2420/W/25/3367383)