

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Final Comments prepared for Mr Andrew Reid against the refusal of application 24/00654/FUL by Hinckley & Bosworth Borough Council for conversion of existing garage into a separate dwelling and alterations (Resubmission of 23/00666/FUL) 502 Coventry Road, Hinckley, Leicestershire, LE10 0NJ.

Application 24/00654/FUL was received by the LPA 2nd July 2024 and refused by notice dated 26th November 2024.

PINS REF: 3359752

Simon Cheshire BA(Hons) DipTP MRTPI

1. This statement has been prepared in accordance with the guidance of my professional institution. I confirm that the opinions expressed in this document are my true and professional opinions.

2. As noted in the Grounds of Appeal, the appellant attended the Planning Committee meeting on the 19th November 2024 and after the vote was taken, could not recall members specifically formulating the exact wording for the reason of refusal so it could be formally recorded via the Chair and the attending member of Democratic Services. The decision notice was issued a full week later on the 26th November 2024 which is unusual in itself, as such decisions are usually issued the following day after the Planning Committee have made their decision.

3. As previously noted, the wording contained within the reason of refusal appears to expand significantly upon the vague and general reference to “visual amenity” stated within the formal printed minutes, to include the below:

“By virtue of its location and siting, the conversion of the existing garage into a dwelling in this site specific location is contrary to the wider urban grain and consequently does not preserve or enhance the character of the area. The development does not represent good design that preserves or enhances the character of the area. These adverse impacts are compounded by the removal of the existing gates and hedgerow to facilitate the site access, which increase the visual prominence of the development within the street scene. These factors result in a significant adverse impact on the character of the area that is contrary to, and in conflict with, Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Section 12 of the National Planning Policy Framework (December 2023) and the Good Design Guide (2020). Ultimately, the adverse impacts of this scheme significantly and demonstrably outweigh the benefits of the development.”

4. The appeal site is located within the settlement boundary of Hinckley therefore the principle of such a building is broadly accepted in principle subject to meeting the associated LP policies on design, appearance and generally respecting the overall character of the area etc. On this matter at paragraph 2.2 of the LPA Statement, this consensus is confirmed as below:

“The garage is currently associated with, and within the rear garden of, 502 Coventry Road, and was permitted via planning application 20/01203/FUL, which also approved the creation of a new access onto Paddock Way, which is an adopted but unclassified road that is subject to a 30mph speed limit. It is noted that the structure’s roof and the proposed site access have not been built in accordance with the approved plans. Contrary to the approved plans, the existing access is gated and does not benefit from a dropped kerb.”

5. The planning history of the garage clearly shows the LPA approved the construction of the building and the creation of a dropped kerb to access it were wholly acceptable in 2020, and notwithstanding the inclusion of the “clipped roof”, following a site visit by the enforcement team post construction and internal inspection, the minor amendment to the roof design was deemed so minor no further

action was considered necessary and the enforcement file was closed and has remained closed.

6. On this basis the physical structure of the garage building has remained lawful and acceptable within the street scene prior to the submission of the current appeal proposal. The dropped kerb was also previously approved and considered acceptable and with the removal of the existing gates the addition of two parking spaces, no objection was raised from the Highway Authority as per paragraphs 8.25 & 8.26 of the Committee Report:

“8.25 The proposal provides two off-street parking spaces within the site. Following their relocation into the centre of the site, the Local Highway Authority confirmed that the scheme’s access and off-street parking provision were generally in accordance with the Leicestershire Highway Design Guide.

8.26 In light of the above, it is therefore considered that the proposal does not create an unacceptable impact on highway safety or the road network. Therefore, the scheme is regarded as in accordance with Policies DM17 and DM18 of the SADMP, and the LHDG.”

7. Given the above, the appellant is at liberty to remove the existing gates at any time and use the garage as ancillary C3 accommodation all of which is not considered to have any detrimental impact on the existing character of the street scene. On the contrary, it was the construction of the 5 blocks of apartments associated with 55 flats along Danelaw Court which were approved at appeal against the refused planning application 17/00115/FUL in 2018, that significantly altered the character and appearance of this area of Coventry Road and Paddock Way. Although to the southwest of the appeal site there is a selection of commercial businesses, these are barely perceptible within the street scene, unlike the bulk and massing of Danelaw Court that dominates the character of the immediate vicinity of the appeal site.

8. The change in character and appearance following the construction of Danelaw Court is significant by its absence within the delegated report and LPA Statement, even though the 5 blocks of flats are the dominant feature within the existing street scene and are an obvious break from the built form of the traditional semi-detached properties fronting Coventry Road. The appeal building is clearly subservient to Danelaw Court in terms of scale and massing, however this material consideration does not feature in the reason of refusal or the recorded minutes of the Committee meeting, or indeed within the LPA Statement where at paragraph 6.2 it states:

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

9. Paragraphs 6.3 and 6.4 of the LPA Statement continue:

*“Paragraphs 13 to 18 of the Appellant’s Statement of Case focus on criticising the Planning Committee’s decision to refuse the appeal proposal. Although the Appellant has referred to the case of **Shadwell Estates v Breckland DC [2013]**, the Planning*

Officers who prepared the Committee Report are not statutory consultees and therefore this has reference has no relevance to the appeal proposal or its determination.

Paragraph 16 of the Appellant's Statement of Case then accuses the Local Planning Authority of predetermining the proposal prior to a formal decision being made at Planning Committee. The Local Planning Authority strongly refutes this accusation."

10. As noted at the beginning of these Final Comments, they been prepared in accordance with the guidance of my professional institution and I confirm that the opinions expressed in this document are my true and professional opinions. The LPA makes reference that I have made accusations related to the pre-determination of the appeal proposal, however the email trail contained in Appendix 1 clearly demonstrates the allocated case officer Sullivan Archer (MRTPI) was engaged in discussions with a Local Councillor regarding possible reasons of refusal and these were not communicated to the appellant, therefore denying the appellant the opportunity to address them prior to the publication of the committee report.

11. Indeed, the appellant received no feedback from the case officer Sullivan Archer until the target date of the 27th August 2024, when it was confirmed, following discussions with his Team Leader Tim Hartley, the appeal proposal would not be recommend for refusal but instead be recommended for approval, subject to a "call in" so it would be determined at Planning Committee. Through no fault of the appellant, the appeal proposal was not determined by Planning Committee until Tuesday 19th November 2025, where it was unanimously refused by the Planning Committee in less than 10 minutes as witnessed by the appellant who was present on the night.

12. On this matter paragraph 6.8 of the LPA Statement claims:

"the decision to refuse planning application 24/00654/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 planning application 24/00654/FUL at Planning Committee was not unreasonable."

13. The recorded minutes of the Planning Committee meeting do not appear to demonstrate any real depth of discussion was undertaken by members, despite the LPA claim that members "*have a greater understanding of local conditions and circumstances*". On the contrary, all members accepted the motion by Councillor Lynch that was seconded by Councillor Bray, that permission be refused where the motion was CARRIED and it was unanimously:

"RESOLVED – permission be refused due to the proposed development being detrimental to visual amenity."

14. It is somewhat unorthodox for the Leader of a Council to sit on a Planning Committee, or for at least one member of the Committee not to speak in favour of a recommendation of approval by a professionally qualified planning officer or possible abstentions failing that. However in this instance, the decision was oddly unanimous

particularly given the minor nature of the appeal proposal and no committee site visit had taken place earlier in the day which is routinely the case under such circumstances.

15. An Award for Costs was not submitted with the Grounds of Appeal as the professional officer opinion was that after a previous refusal via application 23/00666/FUL, the appeal proposal had addressed the previous reasons of refusal and the appeal scheme could be supported on this basis. Although the case officer had indicated to Cllr Pendlebury he would be recommending refusal, following discussions presumably with his Team Leader Tim Hartley or Chris Brown Head of Planning (MRTPI), the provisional officer recommendation to refuse was overruled.

16. Therefore, the professional opinion to approve was either made by a Team Leader or the Head of Planning and once this decision was made the case officer confirmed to the appellant:

*"As an update on your planning application, the Case Officer recommendation is for approval. However, in accordance with Point 5 of Paragraph 2.1 of the Council's Constitution and alongside a **late call-in** by a Borough Councillor, the planning application is required to be determined via the Planning Committee."*

17. On this basis, there is no dispute **"a late call-in"** by a Borough Councillor resulted in the item moving from a delegated decision of approval, to a planning committee decision. The Head of Planning has the discretion to call items to planning committee as do local councillors, however these must be made ordinarily with the statutory consultation period of 21 days and not beyond, unless very special circumstances can be demonstrated and openly documented.

18. The appellant naturally refers to the officer recommendation within the Grounds of Appeal and within the final comments, as he shares the professional officer opinion that when the actual facts of the case and the true material considerations are impartially weighed, the appeal proposal can be supported and the appeal allowed given the recent planning history and the dominance of Danelaw Court within the existing street scene.

19. The Inspector is respectfully requested to consider and weigh the actual facts of the case and the specific material considerations particularly the contents of the email trail contained in Appendix 1, where all the appellant has tried to achieve is a clear line of communication with officers of the LPA in an open and transparent manner throughout the determination of the appeal proposal.

20. Instead, the appellant had to resort to lodging a FOIR just to ascertain the potential reasons of refusal and why the application was initially recommended for refusal by the case officer, and then on the target date 27th August 2024, was overruled by a senior officer and recommended for approval only to be unanimously refused by the Planning Committee some 3 months later.

21. As the Inspector can independently award costs in the case of unreasonable behaviour, the decision to do so or not, will be left to your valued judgement, based

on the contents of the LPA Statement and on the facts presented in this appeal and my true and professional opinions.

Simon Cheshire BA(Hons) DipTP MRTPI