

TOWN AND COUNTRY PLANNING ACT 1990 SECTION 78

Statement of Case

Appellant: Mr and Mrs Wykes

Proposal: Replacement stable block

Site: Barncroft, Dadlington Lane, Stapleton, Leicestershire

LPA: Hinckley and Bosworth Borough Council

LPA ref: 23/00356/FUL

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1 INTRODUCTION

- 1.1 This appeal statement has been prepared by Ellie Jones LLB (Hons) MRTPI an experienced and professionally qualified chartered town planner with over 18 years' experience of working in town and country planning; holding professional membership to the Royal Town Planning Institute since June 2008.
- 1.2 The appeal is made under Section 78 of the Town & Country Planning Act 1990 against the decision of Hinckley and Bosworth Borough Council (the Council) to refuse an application for planning permission for the erection of a replacement stable block at Bamcroft, Dadlington Lane, Stapleton, Leicestershire, LE9 8JL (the Site). The appeal is made on behalf of Mr and Mrs Wykes (the Appellant).
- 1.3 The following statement sets out the background to the appeal; a description of the appeal site and the surrounding area; a description of the appeal proposal; and, the case for the appellant.

2 BACKGROUND TO THE APPEAL

- 2.1 The appeal application was valid on 12th April 2023 and was assigned planning reference number 23/00356/FUL.
- 2.2 The appeal application was determined under delegated authority on 7th June 2023. A full copy of the officer's delegated report is provided at **appendix 1** of this appeal statement.
- 2.3 Planning permission was refused by Notice for the following reasons:

1. *The location of the development is in a very prominent position on the end of a row of residential development along Dadlington Lane, which has notably limited landscaping. The scheme exacerbates ribbon development, and by virtue of its size, scale, massing, and volume, the proposal does not protect or enhance the rural vernacular of the existing stables or the surrounding area. As a result of these factors, the application is considered to result in a significantly detrimental adverse impact on the intrinsic value, beauty and open character and landscape character of the countryside, which is in conflict with Policies DM1, DM4, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Sections 6 and 15 of the National Planning Policy Framework (2021).*
2. *The application is not considered sustainable development and it does not deliver any economic, social or environmental benefits that significantly and demonstrably outweigh the adverse impacts of this scheme. Therefore, the principle of the development is in conflict with Policies DM1, and DM4 of the adopted Site Allocations and Development Management*

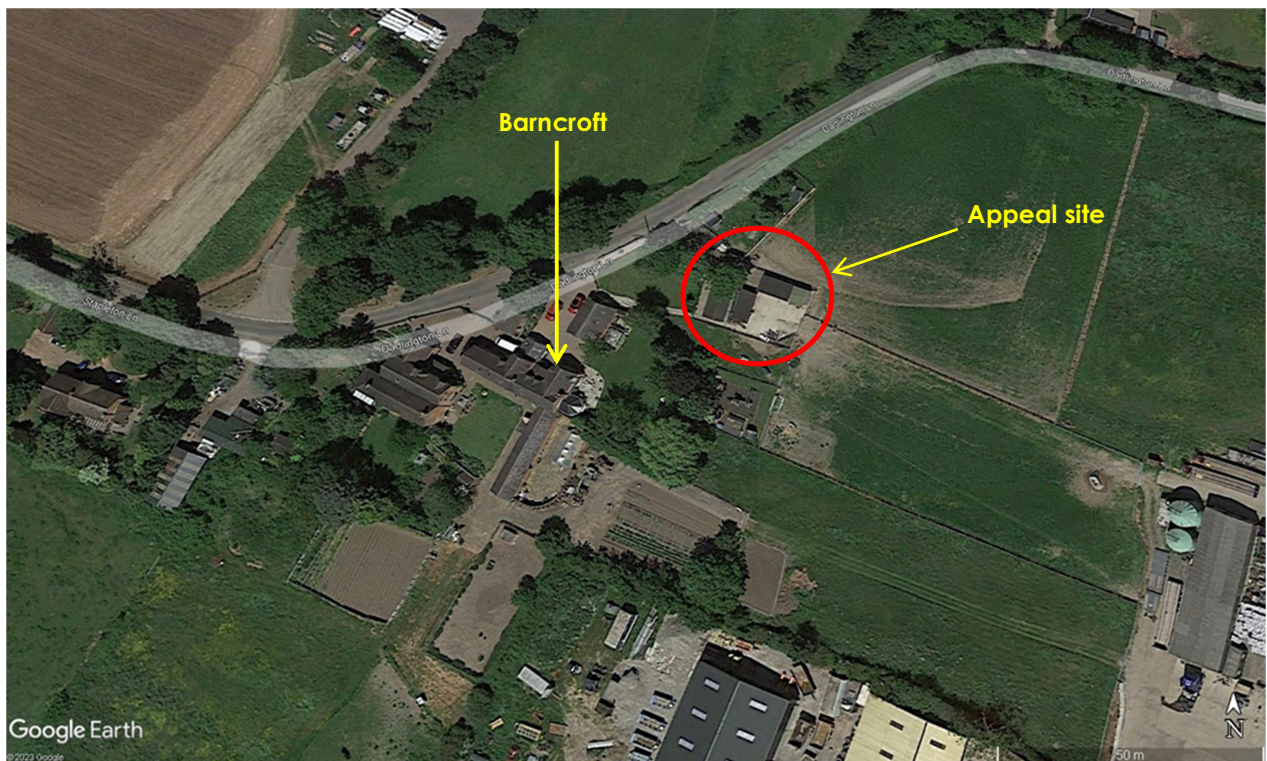
- 2.4 No objections were received from any of the notified statutory consultees or neighbouring properties. Please see sections 5 and 6 of the officer delegated report for details.

3 RELEVANT PLANNING HISTORY

- 22/00912/FUL | Replacement of existing stable block with new foaling boxes and offices associated to existing on-site businesses and storage over | Refused
- 16/00200/HOU | Single storey front extension | Permitted

4 DESCRIPTION OF THE APPEAL SITE AND ITS SURROUNDINGS

- 4.1 The Site relates to a parcel of land equating to 520.41sqm. It is currently occupied by four timber structures (which together provide a total of 6 stables with hay storage) and an area of hardstanding (stable yard). The Site is associated with the residential property known as Barncroft and immediately adjoins the residential curtilage of the dwelling at its north eastern boundary (please see refused Site Plan 22/60 06C). In addition to the submitted site plan, a Google Earth aerial image of the Site is provided below with the Site shown encircled red.



- 4.2 The existing stables are arranged as a pair of back to back detached timber stable buildings (set approx. 1m-1.5m apart). Stable No. 1 provides 3 loose boxes and stable No.2 provides 2 loose boxes). At a right angle to stables 1 and 2 is stable No. 3, which is also a timber structure comprising single loose box with adjoining hay store. Finally, stable No.4 is a small, detached, singular timber stable. Photographs of the existing timber structures, an aerial image of their layout and street views are provided at **appendix 2** of this statement.
- 4.3 The stables are used by the appellants' for stabling their own horses. As shown on the aerial imagery above, the stables and associated yard are accessed directly from the curtilage of Barncroft via a footpath link which dissects the garden lawn. Vehicular access is provided from a gated access off Dadlington Lane. To the north east of the Site is an area of land used by the appellants for keeping chickens and to the east and south is grazing land. Beyond the grazing paddocks is a working farm.
- 4.4 Barncroft and the appeal Site are located west of the rural settlement of Stapleton and; are one of a group of properties situated along Dadlington Lane. The geographic location of the Site in relation to the settlement and neighbouring developments is shown on the Google Earth image provided below. What will be apparent from a site visit, from aerial imagery and from the site photographs (provided at appendix 2) is that the Site forms part of a cluster of existing developments, located on the edge of a rural community, surrounded by well-established working farms, their farmsteads and substantial agricultural buildings.



- 4.6 The Site is not located within a designated Conservation Area nor does it relate to a listed building.

5 DESCRIPTION OF THE APPEAL PROPOSAL

- 5.1 Full copies of the appeal application plans and documents have been provided with the appeal application. The refused plans are:
- Proposed Site Location, Block Plan, Drg No. 22/60 06C (submitted: 12.04.2023)
 - Proposed Stables - Scheme 2, Elevations, Floor Plans, Drg No. 22/60 05E (submitted: 12.04.2023)
 - Survey Drawing, Elevations, Floor Plans, Drg No. 22/60 01 (submitted: 12.04.2023)
- 5.2 The appeal proposal seeks planning permission for the erection of a new stable building to replace the pair of back to back stable buildings identified as stables 1 & 2 (please see paragraph 4.2 of this statement and appendix 2). Stables 1 and 2 currently provide 5 loose boxes within two structures. The appeal proposal seeks to provide 6 loose boxes within one new replacement building.
- 5.3 The replacement structure is located within the existing yard over the footprint of existing stables No1 and No 2. It is proposed that the retained stable 3 will be used for tack and hay storage and stable 4 is to be retained to accommodate the appellants' two goats.
- 5.4 The replacement structure is designed as a stable barn. It provide 6 loose boxes with internal dimensions meeting the British Horse Society's (BHS) standing advice for larger horses (17hh+) and foaling boxes (which are also used for elderly, infirm or sick horses).
- 5.5 The BHS advises: for large horses stable dimensions of 3.65m x 4.25m and for foaling boxes 4.25m x 4.25m. Please see **appendix 3** of this statement which provides a copy of the minimum stable size recommendations at page 2. The appeal proposal delivers the recommended minimum dimensions (please see the proposed floor plan 22 60 05E).
- 5.6 The appellants currently have 6 horses which includes 3 x large (17hh+) retired sports horses, 1 x 16hh horse, 1 x 15.2hh horse and 1 x 15hh horse. Whilst the sports horses are no longer working they are ideal breeding mares. The internal stable sizes are therefore designed to suitably accommodate the larger horses, providing sufficient head room and space to turn around, as well as, providing flexibility to allow for breeding and for nursing during times of illness. The stables are for the private enjoyment of the appellants.
- 5.7 The replacement stable has a simple design; it is to have masonry walls, with a dark timber oak clad finish. Each loose box has its own independent outward opening door and stable window as recommended by the BHS. Roof lights have also been included for improved ventilation in accordance with BHS advice.

Procedural matters:

- 5.8 On a procedural matter, it is brought to the Inspector's attention that the Council appears to have misunderstood the appeal proposal. Paragraph 2.2 of the officer report (copy provided at appendix 1 of this statement) only refers to the replacement of one of the stables and states: "*The new stable block replaces an existing, much smaller, three-bay stable block.*" This is factually inaccurate because two structures, totalling 5 stables/loose boxes, are proposed for removal and replacement. Paragraph 3.1 of the delegated report repeats the same error and refers only to three stables.
- 5.9 No reference or acknowledgement is given to the fact that two separate stable structures are to be replaced by the appeal development. It is suspected that this error has occurred because, unlike the aerial imagery provided at appendix 2, the OS data on the submitted site location plan (Drg No. 22/60 06C) does not show all of the existing structures. Similarly, the survey drawings detail stable 1 and no there is no survey drawing of stable 2. Whilst the discrepancy on the OS data and absence of a survey drawing for stable 2 are unfortunate, it would nevertheless have been apparent from a site visit that the appeal proposal necessitates the removal of two stable structures.
- 5.10 For the avoidance of any doubt, an updated version of the Proposed Site Location and Block Plan has been provided with the appeal submission. The plan does not alter the nature of the proposals but merely clarifies the existing on site conditions. The amended version is assigned Drg No: 22/60 06E. The Inspector is requested to determine the appeal on the basis of this amended plan.

6 DEVELOPMENT PLAN POLICY

- 6.1 The development plan relevant to the determination of the appeal proposal comprises the adopted the adopted Hinckley and Bosworth Core Strategy 2009 and the Site Allocations and Development Management Policies DPD 2016.

- 6.2 The development plan policies referenced in the Council's reason for refusal are:

Site Allocations and Development Management Policies DPD 2016 (SADMP)

- Policy DM1
- Policy DM4
- Policy DM10

For ease of reference, full copies of each of the development plan policies listed above are provided at **appendix 4** of this statement.

- 6.3 Other material planning considerations referenced in the reason for refusal are:

The Framework (2021)

- Section 6 and Section 15

7 CASE FOR THE APPELLANT

7.1 It is submitted that the main points for consideration under this appeal relate to the principle of development and the impact on the character and appearance of the countryside.

7.2 Policy DM4 of the SADMP applies to land outside of settlement boundaries which includes the appeal site. Its stated purpose is to safeguard the countryside from unsustainable development. The policy requires a two stage approach to assessing development. Criterion (a) to (e) of the policy lists development that is regarded to be sustainable and criterion (i) to (v), amongst other things, requires an assessment whether or not the proposal will have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.

7.3 Criterion (a) to (e) of DM4 states development in the countryside will be considered sustainable where:

a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or

b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or diversification of rural businesses; or

c) It significantly contributes to economic growth, job creation and/or

d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or

e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.

7.4 At paragraph 8.9, the delegated officer report states:

"The application is within the open countryside, for the replacement of existing private stables. The principal use of stables is regarded as an equestrian use for the accommodation of horses, and not an outdoor sport or recreational use or an ancillary building relating to such a use."

The report goes on to conclude at paragraph 8.11:

"The Council considers that the proposal is offered no support by Policy DM4 of the SADMP. As such, the application does not accord with Development Plan Policy and is

unacceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report."

- 7.5 Equestrian uses can fall within more than one planning use class. For instance, horse riding (including dressage, eventing, jumping etc) is generally considered to be a use for outdoor sport or recreation (previously Class D2 now Class F2c); whereas, grazing horses or horses employed in agricultural work are agricultural land uses. The keeping of horses (as distinct from their use) falls within the *sui generis* group but even in this scenario, there are some exceptions to this if stables are genuinely incidental or ancillary to some other use (i.e. on a residential property for purely domestic recreational purposes would be an ancillary use to a Class C3 dwelling). Despite the varying land use classifications, most equestrian uses are generally associated with a rural environment.
- 7.6 The appellants have existing stables which the current proposals seek to replace. The stables are closely associated within the residential property and the horses exercised on the adjoining grazing paddocks. Upon reading the delegated officer report, it is apparent that the Council has taken a narrow interpretation of DM4 (a) so as to exclude private equestrian stables and horsiculture. The appellant disagrees with this approach.
- i. Whilst the proposed stables may not be for a community or commercial outdoor sport and recreational use (falling under Class F2(c) of the Use Classes Order (as amended)), they are nevertheless, structures required for private outdoor, leisure and recreational purposes.
 - ii. DM4 a) does not specify that 'outdoor sport and recreation purposes' will be defined as only those falling within Class F2(c) (or the former D2(e) of the Use Classes Order).
 - iii. If DM4(a) is to be applied on such a narrow basis, the development plan is clearly silent in respect of horsiculture and equestrian development associated with the countryside.
 - iv. Stabling horses is a type of development generally associated with the countryside.
- 7.7 Policy DM4 is also silent with respect to replacement buildings and/or the redevelopment of previously developed land. This is notably more restrictive than National Green Belt policy which makes policy provision for both of these types of development. It is submitted that DM4 is arguably inconsistent with the policy objectives of the Framework; for whilst it is consistent with the Framework in seeking to protect the intrinsic character and beauty of the countryside, it is overly restrictive in the type of development that could be considered acceptable. The appeal proposal is a replacement structure.

7.8 It is the appellants' case that, irrespective of any conflict identified with DM4 a) to e), the use of the site for the equestrian purpose is an established one. This is a significant material planning consideration. Given the established use and existing buildings, it is submitted that the principle of a replacement structure is acceptable subject to consideration of its impact as required by the second part of DM4 under the criteria set out under bullet points i) to v). The criteria are assessed in turn below:

i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and

The new stable is located over the footprint of the two existing stable structures it seeks to replace. There is a net gain of just one additional loose box from what currently exists on the site. It is acknowledged that the new building is larger than the two timber structures it seeks to replace but as set out at section 5 of this statement, the internal dimensions of the loose boxes are specifically designed to meet the minimum recommendations advised by the British Horse Society for the size of horses kept by the appellant and the increase in height allows for improved ventilation. Stable barns are not an uncommon design for modern stabling.

Care has been taken to ensure that the design of the stable responds to its rural location and the finished materials include a natural timber cladding. The overall visual quality of the new stable is enhanced from the tired timber structures it seeks to replace. Whilst the new stable will be visible from Dadlington Lane, the replacement stable will be read alongside the other existing structures and residential curtilage of Barncroft; the stable would not occupy an isolated position from other development. The existing surrounding landscape is a working agricultural one and the new stable would not appear out of context with that landscape character. Please see the street scene images provided on pages 3 and 4 of appendix 2 of this statement.

There is land surrounding the proposed stable within the control of the appellant. As shown on submitted Drg No 22/60 06E the existing hedgerow landscaping in front of the stable will be retained. Given the extent of land within the appellants' ownership, if necessary, it would be possible to secure the submission of a landscaping scheme to further enhance the level of landscaping and reduce visibility from Dadlington Lane. The appellant would not object to the imposition of such a planning condition.

For these reasons it is concluded the development would not harm the character and appearance of the countryside nor would it cause conflict with the objectives of DM4 (i).

As referenced at paragraph 5.8 of this statement, it is brought to the Inspector's attention that the Council appears to have based their decision under a misapprehension over the details of the proposal. No reference or acknowledgement is given to the fact that two separate stable structures are to be replaced by the appeal development in the officer delegated report. It is the appellants' view that this error clouded the officer's assessment of the proposal when drawing comparisons between the proposed and existing developments.

ii) It does not undermine the physical and perceived separation and open character between settlements; and

Built development that sits comfortably within the rural landscape and contributes to the beneficial functioning of the countryside can still preserve openness. The development is a type readily associated with the countryside. The Site has an edge of village location, set within a functioning and working landscape, surrounded by large farmsteads. The appeal development is a replacement equestrian structure, located in the position of existing stables. The new building does not seek to develop or encroach into an area of separation nor impact openness.

The proposal does not cause conflict with this policy objective.

iii) It does not create or exacerbate ribbon development;

The reason for refusal states the development exacerbates ribbon development. The appellant disagrees.

Paragraph 13.2 of the development plan describes ribbon development as:

"Ribbon development is where buildings are located single depth along a road frontage and often occurs on roads into and out of settlements, extending the area recognised as belonging to a village (see diagram 1). This type of development is undesirable as it gives a built-up, suburban feel to rural areas which is detrimental to both the character and amenity of the countryside. It can also prevent land to the rear from being used for development in the future, can limit access to agricultural land and can stretch residential populations away from service centres."

*(Copy provide at **appendix 4** of this statement).*

As already highlighted, the appeal proposal seeks to replace two existing structures. The proposal is not of single depth; but instead forms part of an existing stable yard area occupied by existing equestrian structures. The proposal can be better described as infilling between existing structures on an established site rather than ribbon development. There is no extension along the road frontage

toward Stapleton and the type of development proposed is rural in terms of both use and visual appearance.

iv) *If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and*

The Site is not within a Green Wedge.

v) *If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21*

The Site is not within the National Forest.

Overall conclusions with reference to DM4:

The appeal proposal does not cause conflict with DM4 i) to v). The proposal does not cause conflict with the overarching objectives of DM4 or section 15 of the Framework.

7.9 Policy DM10 of the development plan relates to design. Amongst other things it requires development:

c) complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and

d) The use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the local area generally;

e) It incorporates a high standard of landscaping where this would add to the quality of the design and siting;

For the reasons already set out in this statement with reference to DM4 (i) the appeal proposal is appropriate for its rural setting and intended purpose with regard to design, size and choice of materials; and, there is opportunity to secure new landscaping on land within the appellants' ownership that could be secured by suitable planning condition. It is concluded the appeal proposal meets with the objectives of Policy DM10.

7.10 Policy DM1 provides a presumption in favour of sustainable development in accordance with paragraph 11 of the Framework. Planning applications that accord with the policies in the development plan will be approved without delay, unless material considerations indicate otherwise. It has been set out in this statement, that contrary to the reasons for refusal, the proposal

does not cause conflict with the overarching objectives of development plan policies DM4 and DM10 nor does it cause conflict with section 15 of the Framework.

- 7.11 The Council's reason for refusal also cites section 6 of the Framework which relates to building a strong, competitive economy. The appeal proposal relates to a development for a private leisure and recreational use. The proposal is not for a new or existing rural business. That said there are indirect economic benefits from the development including: the initial construction of the stable building (necessitating using suppliers, contractors and the purchase of materials) but also from the supplies, equipment and services needed for the ongoing upkeep and welfare of the livestock. The fact that the proposal is not for a new or existing rural business does not mean it is unsustainable development in economic terms.

7.12 **Conclusions**

The proposal meets with the objectives of development plan policies DM4 and DM10. The proposal amounts to sustainable development in accordance with DM1 and there are no material considerations to indicate that the presumption in favour of granting planning permission does not apply. The Inspector is respectfully invited to allow the appeal and grant planning permission.