

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

Refusal of Planning Permission

Name and Address of Applicant

Mr Andrew Dabin
15 Aulton Way
Hinckley
Leicestershire
LE10 0XB

Name and Address of Agent (if any)

Mrs Ellie Jones
MPC
58 Spon Lane Grendon
Nr Atherstone
CV9 2PD

Part I - Particulars of Application

Date of Application

4 October 2024

Application No.

24/00936/FUL

Particulars and location of development:

Change of use of land to domestic garden

15 Aulton Way Hinckley Leicestershire LE10 0XB

Part II - Particulars of decision

In dealing with the application, through ongoing dialogue and the proper consideration of the proposal in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority have attempted to work with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application as required by the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). However, in this instance, it has not been possible to overcome the concerns raised and the proposal remains in conflict with the provisions of the Development Plan and therefore the application has been refused.

In pursuance of its powers under the Town and Country Planning Act 1990, the Hinckley and Bosworth Borough Council refuses to permit the carrying out of the development referred to in Part I hereof for the following reason(s):-

1. If the application site is granted permission to form part of 15 Aulton Way's residential garden space, the retention of the existing boundary brick wall to 15 Aulton Way cannot be secured via planning condition because it does not meet the necessary six tests identified within Paragraph 56 of the National Planning Policy Framework (December 2023). As a result, the development would result in adverse impacts to the residential amenity of the occupants of 15 Aulton Way as a result of overlooking into and loss of privacy within the primary private outdoor residential space associated with the dwelling. This harm significantly and demonstrably outweighs the benefits of the scheme. Therefore, the proposal is contrary to, and in conflict with, Paragraph 135(f) of the National Planning Policy Framework (December 2023), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and the Good Design Guide (2020).
2. Given the extent, type, and siting of the new proposed knee-high timber fencing boundary treatment required to facilitate the proposed change of use, and the resultant loss of the existing brick wall, the development is contrived and fails to add to the overall quality of the area, nor ensure that the proposal is sympathetic to the built environment and the landscape setting of the wider area. Therefore, the development is considered to result in significant adverse impacts to the character of the surrounding area. This harm significantly and demonstrably outweighs the benefits of the scheme. Therefore, the proposal is contrary to, and in conflict with, Paragraph 135 of the National Planning

IMPORTANT - PLEASE READ THE NOTES AT THE END OF THIS DOCUMENT

NOTES TO APPLICANT :-

1. The application has been determined in accordance with the following submitted details:

- Application Form (submitted: 04.10.2024)
- Highway Extent Plan LCC (submitted: 04.10.2024)
- Planning Statement (submitted: 04.10.2024)
- Proposed Fence Elevation (submitted 22.10.2024)
- Proposed Site Layout (Rev A) (submitted: 04.11.2024)
- Site Location Plan (submitted: 04.10.2024)



Christopher Brown MRTPI
Head of Planning

Date: 26 November 2024

NOTES

1. It will be most helpful if the application number shown overleaf is quoted on all correspondence.
2. If you consider that this decision has been made invalidly through the Council failing to follow a procedure correctly, not having the legal power to make the decision in the way it did or through its decision being so unreasonable as no reasonable local authority would make the same decision based on the same facts, then you may enter a claim for judicial review to quash the decision. In order to proceed with a claim for judicial review an initial application for permission will need to be made to the Administrative Court, this application is required to be made "promptly and in any event within three months of the decision". The initial permission application will decide if you have an arguable case, whether you are sufficiently materially affected by the decision to bring the claim. If you are granted permission to bring the claim it will proceed to a full hearing at the Administrative Court. Although there is no requirement for you to do so it is highly recommended that you seek independent legal advice before bringing forward a claim for Judicial Review
3. If you are aggrieved by the decision of the Local Planning Authority to refuse permission you may appeal to the Planning Inspectorate in accordance with Section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice. If your appeal is against a Minor Commercial Development, we would advise you to view the guidance on the Planning Portal website under Procedure Guidance, to confirm the time frame for appealing. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, tel. 0303 444 5000 or online at <https://www.gov.uk/appeal-planning-decision>). You must use a Planning Appeal Form when making your appeal. If requesting forms from the Planning Inspectorate, please state the appeal form you require. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been granted by the Local Planning Authority, (or could not have been so granted otherwise than subject to the conditions imposed by them,) having regard to the statutory requirements as set out in Section 78 of the Town and Country Planning Act 1990, to the provisions of the development order, and to any directions given under the order. He does not in practice refuse to entertain appeals solely because the decision of the Local Planning Authority was based on a direction given by him. Appeals- new time rules. Appeals relating to applications made to the Local Planning Authority on, or after, 14 October 2004 must be made within six months of the date of this notice. If you intend to submit an appeal that you would like examined by inquiry then you must notify your Local Planning Authority (planning@hinckley-bosworth.gov.uk) and the Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details can be found on GOV.UK.
4. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application then, you must do so in accordance with the guidance found using the following link <https://www.gov.uk/appeal-enforcement-notice/>.
5. If permission to develop land is refused whether by the Local Planning Authority or by the Secretary of State for the Environment and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, he may serve on the Council a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.
6. In certain circumstances, a claim may be made against the Local Planning Authority for compensation, where permission is refused. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

RNOTES (02/07/2014)