

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990



**Hinckley & Bosworth
Borough Council**

STATEMENT OF CASE ON BEHALF OF THE LOCAL PLANNING AUTHORITY

**PLANNING APPEAL BY MR DAEMON
JOHSON**

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR PROPOSED
CHANGE OF USE OF LAND TO PROVIDE A DOG DAY CARE FACILITY AND
ASSOCIATED FENCE**

AT:

LAND SOUTH EAST OF DAWSONS LANE, BARWELL, LEICESTERSHIRE

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE:
23/00455/FUL**

**THE PLANNING INSPECTORATE REFERENCE:
APP/K2420/W/24/3337582**

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1.0 SECTION 1: INTRODUCTION

- 1.1 This statement outlines Hinckley and Bosworth Borough Council's statement of case in relation to the appeal against the refusal of full planning permission for the change of use of land to provide a dog day care facility and associated fence at land south of Dawsons Lane, Barwell, Leicestershire.
- 1.2 The application was refused by Hinckley and Bosworth Borough Council's Planning Committee following a recommendation for refusal by planning officers on 09th November 2023. This statement is in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission.
- 1.3 Please see Appendix 1 (the Committee Report) for the site description, application description, site history, relevant policies and the Council's case, all of which have already been set out in the Committee Report and shall not be repeated here for brevity.

2.0 SECTION 2: COMMENTS ON THE APPELLANT'S GROUNDS OF APPEAL

- 2.1 In preparing this statement the Council have reviewed the Appellant's Statement of Case (SoC), the following section comments specifically on this statement expanding upon the Council's full case contained in Appendix 1.
- 2.2 The Appellant refers in their introduction (para. 1.2, pg 3) to some disparity between the description of the overall proposal which is the 'Change of use of land to provide dog day care facility and associated fence' and the actual proposal which also included 'a building, boundary fencing to the facility and site entrance gates'. The appellant acknowledges that the 2.4m high entrance gates were not included in the Council's description of development, this is because the entrance gates were not included in the appellants application form 'Description of the proposal' or documents submitted with the application. They therefore did not form part of the Local Planning Authorities' (LPA) consideration of the case and were not referenced in the Committee Report (Appendix 1).
- 2.3 It should also be noted that the Design and Access Statement submitted with the appeal which refers to gates and associated fencing in paragraph 2.8 was not submitted to the LPA during the determination of the planning application. The version submitted to the LPA is appended at Appendix 2 for completeness and does not reference access gates.
- 2.4 In Para 5.16c (pg 15) of the Appellant's SoC the appellant refers to the secure dog walking area, but this was not included in this application. The proposal would therefore not enhance public access to the Green Wedge or provide recreational secure dog walking.
- 2.5 In Para 5.17 (pg 18) of the SoC the Appellant states it is 'common ground between the parties that this is not a use suitable for the built up area (as demonstrated by the previous dismissed appeal on Wood Street in Hinckley)'. This view is not stated in the LPA's planning report or appeal documents for the Wood Street application and the Appellants point is refuted. The Wood Street case was materially different to the appeal proposal as is set out in the appeal decision (APP/K2420/W/17/3167902) (Appendix 3). In any event as set out within the Committee Report (Appendix 1) it is the LPA's case that the proposal is not for outdoor sport or recreation purposes and thus Policy DM4(a) is not relevant. Were the Inspector minded to agree with the Appellants on this

first point, the LPA does not consider that sufficient evidence has been provided that the proposed scheme cannot be provided within or adjacent to settlement boundaries. Although the LPA acknowledge that a rural location, away from residential properties would reduce potential for noise and disturbance.

- 2.6 Another application referred to in the SoC is the Rogues Lane permission (HBBC reference 18/00353/FUL). Each application is assessed on its own merits, this permission was materially different to the current proposal as it was 1) Not in the green wedge and 2) Involved the change of use/re-use of an existing agricultural building which complied with Policy DM4(b).
- 2.7 Inglenook Farm, adjacent to the appeal site, is referred to several times within the Appellant's SoC. Again, each application is assessed on its own merits, whilst it is acknowledged that both sites are in close proximity to each other, within the Green Wedge and in the countryside the developments approved at Inglenook Farm are materially different. The approvals at Inglenook Farm (23/00131/FUL, 23/00146/FUL and 24/00213/FUL) have been for building(s) immediately adjacent to large pre-existing agricultural/equestrian buildings some of which had to be demolished thus the harm to the countryside/green wedge is lesser. Furthermore the site is not located in the same elevated position of the appeal site. With regards to whether they are recreational use, whilst a commercial livery for horses, owners of the horses would still ride from the site and surroundings and therefore has elements of recreational use unlike the appeal proposal which would be purely a commercial venture. Owners of the dogs would not access the site or surroundings owing to the drop off/pick up service.
- 2.8 With regards to Inglenook Farm, the appellants SoC fails to mention application 23/00535/FUL, also at Inglenook Farm, which was refused as the proposal for 9 accommodation pods, 4 holiday lodges a management building and associated development was judged to be contrary to policies DM4, DM10 and CS6. Another application 23/00366/FUL at Inglenook Farm for the replacement of existing barns was withdrawn following officer concerns with the design of proposed barns and so these comments by the appellant are also rebutted. Links to the planning application details referred to above can be found in Appendix 4, it is clear that the LPA assess each application on its own merits.
- 2.9 Para 6.16 (pg 22) of the SoC fails to mention the word significant from Policy DM4. In Para 8.8 of the Committee Report (Appendix 1) associated with this appeal it states that 'Policy DM4 of the SADMP states that the development should significantly contribute to economic growth' and that 'in a recent appeal decision for development within the countryside within the Hinckley and Bosworth Borough (APP/K2420/C/22/3304695- Decision Date: 24 October 2023) (Appendix 5) an inspector found that the creation of 4 jobs was not considered to be a significant contribution to economic growth or job creation'.
- 2.10 In terms of environmental benefits stated at paragraph 7.13 (pg 30), the biodiversity enhancements proposed would need to be linked to the permission to attribute any positive weight to this. At present a landscaping plan has not been submitted and the LPA understands the biodiversity enhancements have already occurred separately to the consideration of this planning application.

3.0 SECTION 3: CONCLUSION

- 3.1 As set out fully in the Committee Report (Appendix 1) whilst it is noted that the proposal could generate additional employment, the proposal does not create a significant amount of economic growth. It is therefore considered that the principle of development would not constitute sustainable development within the countryside and would be contrary to Policy DM4 of the Site Allocations and Development Management Policies DPD. Furthermore the land use would not accord with Policy 6 of the Core Strategy.
- 3.2 The proposed development would significantly harm the character and appearance of the countryside by introducing an uncharacteristic form of development into an area of largely undisturbed, verdant and open countryside. Although improving the quality of the green wedge with 0.5 Hectare of native woodland, this would not outweigh the impact of the proposal which would have an unwarranted and adverse impact on the undeveloped nature of surrounding countryside which is characterised by agriculture. As such, there is unjustified harm to the intrinsic value and beauty of this area of countryside and the visual appearance of the Green Wedge, contrary to Policy DM4 and DM10 of the SADMP, Policy 6 of the Core Strategy and Paragraphs 9, 84, 130 (c) and 174 (b) of the NPPF (2023). The proposal is therefore recommended for refusal.
- 3.3 It is respectfully suggested that there are no other material planning considerations or other evidence provided within the Appellant's SoC or other submitted information that would provide any development plan policy justification for the development or to indicate that the appeal should not be determined in accordance with the development plan for the area. However, should the Inspector be minded to allow the appeal then it is requested that consideration be given to the imposition of the conditions suggested within Section 4 of this statement.

4.0 SECTION 4: SUGGESTED 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, as follows:

- Site Location Plan - Drg No. 'DWG REF' (Aug 2022) (Received by the LPA on 12/05/2023)
- Amended Block Plan- Drg No. 85/032023/03 (Sept 2023) (Received by the LPA on 07/09/2023)
- Proposed Layout, Elevations, Floor Plan Plots - Drg No. 85/032023/02 (May 2023) (Received by the LPA on 17/08/2023)

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 dog day care facility shall only operate during the following hours:
Monday – Friday 10:00-15:30
A maximum of 30 dogs shall be on site, with a maximum of 18 permitted in the external exercise area at any one time.

Reason: To help prevent and mitigate noise, odour and pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD (2016) and the National Planning Policy Framework.

4. Prior to the first operation of the dog care facility an acoustic fence shall be erected in accordance with paragraph 1.2.4 of the submitted Noise Impact Assessment Report by Noise Air Acoustics and Air Quality (Report Ref: P6466-R1-V2, dated 12th July 2023) and Amended Block Plan- Drg No. 85/032023/03 (Sept 2023) (Received by the LPA on 07/09/2023). Thereafter the fence shall be retained and maintained in accordance with these details in perpetuity.

Reason: To help prevent and mitigate noise pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD (2016) and the requirements of the NPPF.

5. Prior to the first operation of the dog care facility a Noise Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Noise Management Plan shall follow the recommendations of the submitted Noise Impact Assessment Report by Noise Air Acoustics and Air Quality (Report Ref: P6466-R1-V2, dated 12th July 2023) and shall include:
 - detail regarding the management of dogs on site including staff awareness
 - control measures used to reduce barking along with what actions can be taken when the stimuli is outside the facility
 - a complaints procedure in the event a complaint is made

Thereafter the development shall operate in accordance with the approved details in perpetuity.

Reason: To help prevent and mitigate noise pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD (2016) and the requirements of the NPPF.

6. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with the 'Amended Block Plan- Drg No. 85/032023/03 (Sept 2023) (Received by the LPA on 07/09/2023)'. Thereafter the onsite parking provision shall be so maintained 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 Policy DM17 and DM18 of the Site Allocations and Development Management Policies DPD (2016) and the National Planning Policy Framework (2023).

7. No development above foundation level shall take place until a scheme of hard and soft landscaping works, including boundary treatments, and biodiversity improvements for the site, including an implementation scheme, has been 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. 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 are 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 by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies DPD (2016).

Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
3. To erect temporary directional signage you must seek prior approval from the Local Highway Authority in the first instance (telephone 0116 305 0001).
4. All proposed off site highway works, and internal road layouts shall be designed in accordance with Leicestershire County Council's latest design guidance, as Local Highway Authority. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>

5. Provision for waste and recycling storage of containers and collection across the site will be required and adequate space provided at the adopted highway boundary to store and service wheeled containers.
6. Application forms to discharge conditions and further information can be found on the planning portal website www.planningportal.gov.uk
7. Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales, etc. and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
8. Access drives, parking and turning areas, paths should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).