

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Grounds of Appeal prepared for Gillian Nicol against the refusal of application 24/00596/FUL by Hinckley & Bosworth Borough Council for a proposed wooden cattery at 7 Springfield Road, Hinckley, LE10 1AN.

Application 24/00596/FUL was received by the LPA 11th July 2024 and refused by notice dated 30th September 2024.

November 2024

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Main Issue

1 The appeal proposal was reported to the 24th September 2024 Planning Committee with an officer recommendation of approval and the Committee Report is included within the appeal documents for ease of reference alongside the printed committee minutes and decision notice. Members of the Planning Committee chose to disregard professional officer advice and overturn the recommendation of approval to one of refusal as stated in the printed committee minutes and reflected in the decision notice as below:

“Three objectors and the applicant spoke on this item.

Notwithstanding the officer’s recommendation that permission be granted, members felt that the impact on neighbours and the character of the area would be contrary to policy DM10 of the site allocations and development management policies DPD. It was moved by Councillor Bray and seconded by Councillor Allen that permission be refused. Upon being put to the vote, six members voted for the motion and six voted against the motion to refuse. The chair therefore exercised her right to a casting vote and voted for the motion to refuse. The motion was therefore CARRIED and it was

RESOLVED – permission be refused due to the impact of the proposed cattery on neighbours and upon the character of the area, contrary to policy DM10 of the site allocations and development management policies DPD.”

Material Considerations

2 The starting point for the determination of any proposal remains the Development Plan and Section 38(6) of the Planning and Compulsory Purchase Act 2004 confirms this statutory requirement and the NPPF (2023) reiterates the approach where planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions and where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.

3 The NPPF identifies three dimensions to sustainable development giving rise for the planning system to perform the roles below:

“an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.”

4 Furthermore LP policy should follow the approach of the presumption in favour of sustainable development where such development should be approved without delay. On

this basis the Government is committed to ensuring the planning system supports all sustainable development.

Principle of development

5 The application seeks approval for an outbuilding to the rear of the property for use as a cattery for up to 8 cats and proposes two-off street car parking spaces. The host property is located within the settlement boundary of Hinckley in a predominantly residential area, where the modest built form of cattery is considered to be an ancillary addition to the main residential use and is therefore acceptable in principle and this is confirmed within the committee report that states:

“8.7 The unit itself, as discussed within the design and impact upon the character of the area section of the report, has been established to be within the remits of the General Permitted Development Order 2015. The unit itself is not considered to cause detrimental impacts upon neighbouring amenity in terms of loss of light, loss of privacy, overlooking or overbearing impacts, by way of its location, set at the end of the rear garden of No. 7 Springfield Road, the single storey nature of the structure, and the existing boundary treatments which consist of a 1.8m wooden fence and a mature hedgerow approximately 1.8m in height.

8.8 Concerns have been raised via objection letters from neighbouring residents which related to amenity impacts caused by smell from the use of the outbuilding as a cattery and noise, especially at night, from the cats within the unit.

8.9 Hinckley & Bosworth Borough Council Environmental Health: Pollution department were consulted as part of the proposal, to offer their comments on the proposed cattery at the site. Initial queries were raised relating to the specifications of the air conditioning unit and the specifications of the unit, to allow for a full analysis of the potential impacts. Following the applicant’s submission of this information, HBBC Environmental Health confirmed that they have no objections to the proposal.

8.10 Whilst the cattery does introduce the prospect of housing a maximum of 8 cats at any one time, the unit benefits from double glazed windows and is fully insulated, with a concrete sealed floor providing a sufficient degree of sound proofing, significantly limiting any potential noise or smell impacts from the cattery.

8.11 As such the proposal is considered to be in accordance with Policy DM10 of the SADMP.”

6 It was on the basis that the proposed cattery was considered acceptable in principle that discussions continued with the statutory consultees during the determination period and in particular, with the Environmental Health Officer of the Council. As a result of these detailed negotiations, additional information was submitted that resulted in no technical objections subject to standard conditions from the statutory undertakers.

7 The publication of the formal minutes of the Planning Committee meeting add little substance to the reason of refusal and how members actually came to the final decision. The seeming lack of objective analysis, detailed debate and logical reasoning behind the reason of refusal, it is considered the professional officer opinion and the manner of the thorough and in depth analysis of the specific material considerations of the appeal scheme the officer conclusion remains correct that states:

“10.1. The proposal for a wooden cattery, for up to 8 cats at the property is not considered to cause detrimental impact to the character of the area, it is considered

not to cause significant detrimental impacts to neighbouring amenities, and it is considered to not have significant adverse impacts on the highway. As such it is considered that the proposal is in general accordance with Policies DM10, DM17 and DM18 of the adopted SADMP (2016)”.

8 On the basis of no objection from the relevant statutory consultees and the additional information provided by the appellant during the determination period, significant weight should be given to the case of **Shadwell Estates v Breckland DC [2013]** that states:

“a decision-maker should give the views of statutory consultees... “great” or “considerable” weight. A departure from those views requires “cogent and compelling reasons.”

9 It is considered members of the planning committee in reaching their decision have not provided cogent or compelling reasons to substantiate the reason of refusal and it is respectfully requested the appeal is allowed on this basis. Notwithstanding this, the appellant will naturally respond accordingly where appropriate once the LPA Statement of Case is received.