

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 MS E CLARKE

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR PROPOSED
FORMATION OF NEW ACCESS AND PARKING AREA**

AT:

**Hill View, 15 Sheepy Road
Twycross**

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE:
24/00529/FUL**

**THE PLANNING INSPECTORATE REFERENCE:
APP/K2420/W/24/3357325**

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1.0 SECTION 1: INTRODUCTION

- 1.1 This statement outlines Hinckley and Bosworth Borough Council's ("**the Council's**") statement of case in relation to the appeal against the refusal of full planning permission for the formation of a new access and parking area.
- 1.2 The application was refused by the Council on 13th September 2024. This statement is in full support of the decision to refuse planning permission.
- 1.3 The site description, application description, site history, relevant policies and the Council's case, are contained within the delegated officer report in Appendix 1 and shall not be repeated here for brevity.

2.0 SECTION 2: COMMENTS ON THE APPELLANT'S STATEMENT OF CASE

- 2.1 In preparing this statement the Council have reviewed the Appellant's Statement of Case (SoC) received on 12th December 2024, the following section comments specifically on this statement expanding upon the Council's full case contained in Appendix 1.
- 2.2 The Appellant's SoC confirms that there would be a visual impact on the rural character and appearance on the southern approach to the village, and that this would lead to less than substantial harm on the lower end of the spectrum of harm (paragraph 6.16). This accords with the Council's view.
- 2.3 The Appellants' SoC states at paragraph 6.18 that there would be public benefit through highway safety gains. The appellant states that surrounding school drop off and collection times that access to Flax Lane, along Sheepy Road, becomes congested with vehicles restricting the access to Flax Lane and the appellants' access to their driveway. No evidence has been submitted demonstrating that alleged parking at these specific times leads to highway safety issues. Furthermore, it is the view of the Council that the provision of the proposed access and hardstanding for vehicular parking for Hill View, would not alleviate the alleged highway safety concerns around Flax Lane as the access would still be utilised by the existing neighbouring residents that share access on Flax Lane. The reduction of one household's vehicles accessing/egressing Flax Lane would not make a material impact on the highway.
- 2.4 Paragraph 020 (Reference ID: 18a-020-20190723) of the Planning Practice Guidance is clear that "*Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit*". For the reasons outlined above and the full case contained in Appendix 1, the Council remain of the view that the provision of a new access for Hill View would provide only private and not genuine public benefits to outweigh the level of harm cause by the proposal.

3.0 SECTION 3: CONCLUSION

- 3.1 As set out fully in the delegated officer report (Appendix 1) the proposal is not considered to be acceptable in terms of the overall design and impact to the rural character of the area, causing an urbanising effect on the proposed area. Furthermore, the development is not considered to be acceptable in terms of the adverse impact

upon the verdant and rural character and appearance of the southern approach to the Twycross Conservation Area, resulting in less than substantial harm which is not outweighed by public benefit. The appeal submission does not alter this view and the proposals remain in conflict with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies DPD 2016 and section 16 of the NPPF.

- 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 other than 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:

Planning Statement received 23rd May 2024

Site Location Plan Drg No. 21.3964 received 23rd May 2024

Topographical Survey Dwg no 21-396-01 received 23rd May 2024

Detailed Planning Proposals - Drg No. 21.3964.12 A received 20th August 2024

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 development hereby permitted shall not be brought into use until such time as the access, parking and turning facilities have been implemented in accordance with 'Detailed Planning Proposals', drawing number 21.3964.12. Thereafter the access, onsite parking and turning provision shall be kept available for such use in perpetuity.

Reason: To ensure that vehicles entering and leaving the site may do so in a slow and controlled manner and 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 Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).

4. No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance 5 metres of the highway boundary.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).

5. The development hereby permitted shall not be occupied until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2024)

6. No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided to and approved in writing by the Local Planning Authority. Thereafter surface water shall not drain into the Public Highway and thereafter shall be so maintained.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).

7. Within 1 month of the access and parking area hereby approved being brought into first use, the existing vehicular access and parking area serving Hill View, 15 Sheepy Road, Twycross on Flax Lane shall be permanently closed for vehicles.

Reason: For the avoidance of doubt, to ensure that public benefits of the development are realised and in the interests of highway safety in accordance with Policy DM11, DM12 and DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2024).

8. The proposed hedgerow planting, shown on 'Detailed Planning Proposals - Drg No. 21.3964.12 A', shall be planted no later than within the first planting season following commencement of development. The hedgerow shall consist of native hedgerow species and shall thereafter be maintained for a period of 5 years.

Reason: To ensure that visual and ecological interests are mitigated in accordance with Policy DM6, DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2024).

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. Any vegetation clearance should be carried out outside the bird breeding season (which runs from March to September, inclusive), to avoid adverse impacts to nesting birds. However, if works are carried out during the bird breeding season, firstly a nesting bird check would be required by an ecologist. Any nests confirmed to be active will need to be retained in situ until the chicks have naturally fledged and further site monitoring visits are likely to be required to confirm this.

APPENDIX 1 – DELEGATED OFFICER REPORT

Delegated Report

Planning Ref: 24/00529/FUL

Applicant: Ms E Clarke

Ward: Twycross, Sheepy and Witherley



**Hinckley & Bosworth
Borough Council**

Site: Hill View, 15 Sheepy Road, Twycross

Proposal: Formation of new access and parking area

1. Recommendations

1.1. Refuse planning permission for the following reason:

1. The development fails to complement or enhance the rural character of the surrounding area as a result of its design, location and urbanising effect. As a result the proposal is considered to be in conflict with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Section 12 of the National Planning Policy Framework (2023).
2. As a result of its design, location and urbanising effect the proposal is considered to have an adverse impact upon the verdant and rural character and appearance of the southern approach to the Twycross Conservation Area and the section of Sheepy Road contained within its boundaries, thus causing harm to its significance. The level of harm is considered to be less than substantial in terms of the NPPF and is not outweighed by public benefits and as such the proposal is in conflict with Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD 2016 and section 16 of the NPPF.

3. Planning application description

- 2.1. The proposal seeks the formation of a new access and parking area, including associated hardstanding and the removal of a section of hedgerow on Sheepy Road, Twycross.
- 2.2. The access and parking area would serve the host dwelling located some 35m north of the edge of the parking/turning area.

4. Description of the site and surrounding area

- 3.1. The wider application site is located at the edge of the settlement boundary of Twycross at the junction of Sheepy Road with Flax Lane on its southern boundary and within the Twycross Conservation Area. The site consists of a large detached

dwelling with an existing access from Flax Lane, and a large garden with runs to the South of the dwelling alongside Sheepy Road.

- 3.2. The proposed access would be sited at the end of this larger garden on the southern periphery of the existing garden.
- 3.3. The site benefits from existing mature hedgerow which runs along Sheepy Road (B4116).

5. Relevant planning history 23/00130/HOU

Two storey rear extension, single storey rear and side extension and conversion of existing garage to living accommodation

Planning Permission

05.06.2024

6. Publicity

- 5.1. The application has been publicised by sending out letters to local residents and a site notice posted within the local vicinity.
- 5.2. No comments were received.

7. Consultation

- 6.1. The following consultation responses are:
 - LCC Highways: No objections, subject to conditions and notes to applicant.
 - HBBC Conservation Officer: Less than substantial harm noted, comments in main body of this report.
 - HBBC Waste Management: No objections.
 - HBBC ES Pollution: No objection.
 - Twycross Parish Council: No comments received.
 - LCC Ecology: No objections, however replacement hedgerow should be a native species and it is noted to the applicant that potential impact to breeding birds should be given acknowledgement.

8. Policy

- 7.1. Core Strategy (2009)
 - Policy 12: Rural Villages
- 7.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards

- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)

- 7.4. Other relevant guidance
- Good Design Guide (2020)

9. Appraisal

8.1. Key Issues

- Design and impact upon the character of the Conservation area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Ecology
- Planning balance

Design and impact upon the character of the area and heritage assets

- 8.2. Policy DM10(c), (d) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings.
- 8.3. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.4. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraphs 205-208 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.
- 8.5. Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) DPD seek to protect and enhance the historic environment. Development proposals should ensure the significance of a conservation area is preserved and enhanced.
- 8.6. The proposed area for car parking is a section to the south of the garden plot serving 15 Sheepy Road. The western boundary of the garden plot comprises of a dense length of hedgerow, with occasional hedgerow trees, which runs along the full length of the plot flanking the highway verge and Sheepy Road. This dense length of hedgerow continues along the highway verge and forms the western boundary to the field to the south of the site. Although there are slight seasonal variations, the vegetation screen largely restricts views of 15 Sheepy Road when approaching the village, with the dwelling not being visible until nearing the junction with Flax Lane. The dense hedgerow along the boundary of Sheepy Road and the rear garden of no.15 provides a definitive sense of enclosure and a verdant and rural character and

appearance on the approach to and within the Twycross Conservation Area, and such characteristics make a positive contribution to its significance.

- 8.7. The proposed vehicular access to the parking area consists of the removal of a 6.78m length of the hedgerow and the cutting back of the flanking sections of hedgerow to provide visibility splays. The permanent loss of a section of hedgerow and the cutting back of the flanking sections would provide an uncharacteristic break within its length and reduce the sense of enclosure that the hedgerow currently provides. The hard surfacing required for the access and car parking area and the presence of cars would also have urbanising effect upon the immediate character of the area. Given the relatively limited extent of the loss of hedgerow when considered its length as a whole, and that the urbanising effect would be most noticeable when in the immediate vicinity of the site only, it is considered that the visual effects of the proposal are relatively minor. However, the visual effects of the development are considered to have an adverse impact upon the verdant and rural character and appearance of the southern approach to the Twycross Conservation Area and the section of Sheepy Road contained within its boundaries, thus causing harm to its significance. The level of harm is considered to be less than substantial in terms of the NPPF and given the above reasoning the impact is considered to be towards the lower end of this spectrum of harm.
- 8.8. In terms of the wider character of the area, the hedgerow helps create a quick transition from the built-up form of Twycross and that of the surrounding countryside and vice versa on entry to the village. This is aided by the maturity of the hedge and its continuation to the field hedges beyond it. It is noted that there is an existing access opposite the site and the tennis courts for Twycross House School which do add some urbanising form to the western side of Sheepy Road, although neither contribute positively to the character of the area. Furthermore, the access in particular demonstrates the impact and urbanising form of similar development, albeit that access does have some visual relationship with the tennis courts to which it serves. On the contrary the proposed access would appear visually divorced to the dwelling it serves by virtue of the intervening distance to the dwelling. The proposal would also therefore also be contrary to policy DM10 in that it does not complement or enhance the surrounding area.
- 8.9. As currently proposed the harm caused to the Twycross Conservation Area must be carefully weighed up against the public benefits of the proposal as required by Policies DM11 and DM12 of the SADMP DPD and paragraphs 205, 206 and 208 of the NPPF.
- 8.10. Paragraph 205 of the NPPF states that great weight should be given to the conservation of designated heritage assets, and the more important the asset, the greater the weight should be. This is irrespective of the level of harm to the significance of the asset.
- 8.11. Paragraph 206 of the NPPF states that any harm to the significance of any designated heritage asset should require clear and convincing justification. The applicant has submitted a justification for the proposed access; and whilst it is given that the reasoning behind the proposed access is due to the existing access being blocked at various times throughout the day, it is not considered to be significantly justifiable to outweigh the level of harm to the conversation area. The dwelling benefits from an existing lawful access and parking area from Flax Lane and it is considered that inconsiderate parking could be reported to the policy where unlawful,

or measures could be explored with the highway authority to determine if white lines or other parking measures could alleviate said issues. Furthermore the proposed access is a significant distance from the dwelling, officers have questioned whether the access could be moved closer to the dwelling to concentrate the urbanising impact near to the built form of the dwelling and those surrounding it. Such amendments have not been made.

- 8.12. Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the NPPF (paragraph 8). Public benefits may include heritage benefits as specified in the Planning Practice Guidance (Conserving and enhancing the historic environment – paragraph 20), such as:
- Sustaining or enhancing the significance of a heritage asset and the contribution of its setting
 - Reducing or removing risks to a heritage asset
 - Securing the optimum viable use of a heritage asset in support of its long term conservation
- 8.13. The proposal can demonstrate no heritage benefits. Furthermore, the benefits that flow from the development are those which benefit the applicant as a private individual. Some public benefit could be given to potential highway improvements had this been justified, however, given Flax Lane is served by a number of other dwellings and given the lack of evidence such highway benefits have not been demonstrated. Therefore, whilst the harm to the Conservation Area is judged to be at the lower end of less than substantial in terms of the NPPF no public benefits are judged to outweigh this. As such the proposal is considered to not be in accordance with Policies DM11 and DM12 of the SADMP and section 16 of the NPPF.

Impact upon neighbouring residential amenity

- 8.13. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.14. The proposal is for the creation of a new access and hardstanding area for vehicular parking. The proposed location is to the south of the main dwelling and is not considered to cause detrimental impacts to neighbouring residential amenity due to the nature of the proposal and its limited impacts on loss of light, loss of privacy, overbearing or overshadowing impacts, alongside issues of noise and smell. Therefore the proposal can be considered to be in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.15. Policy DM17 of the adopted SADMP supports development where there would be no significant adverse impact on highway safety. Policy DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design.
- 8.16. Leicestershire County Council have been consulted as part of this proposal and have confirmed (as set out fully in their comments) that they have no objections to the proposal subject to conditions to ensure that the materials are secured, the turning facilities are brought into use and the drainage measures are implemented.

- 8.17. As such it is considered that the proposal is in general accordance with Policies DM17 and DM18 of the SADMP.

Ecology

- 8.18. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value.
- 8.19. Following a consultation with LCC Ecology, it was confirmed that due to the removal of the section of hedgerow to allow for the formation of the new access that consideration would need to be given by the applicant to ensure that sufficient native species hedgerow is planted to mitigate against the loss, and in addition, that consideration is given during the hedgerows removal to breeding birds. Whilst this is not an objection by LCC Ecology, this information would need to be secured by condition to ensure its accordance with Policy DM6 of the SADMP were the application otherwise acceptable.

Planning Balance

- 8.20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.21. Owing to its urbanising impacts, it is considered that the overall design owing to the location of the proposed access and hardstanding would be in conflict with the general design policies of the development plan, specifically Policy DM10 of the SADMP.
- 8.22. Furthermore, the proposal is judged to cause less than substantial harm to the significance of the Conservation Area. In completing the required balancing exercise great weight is given to the conservation of the Twycross Conservation Area as required by paragraph 205 of the NPPF and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. As stated within this report, no heritage or public benefits are considered to outweigh the harm to the Conservation Area as per paragraph 208 of the NPPF and Policy DM11 of the SADMP.
- 8.23. Therefore the proposal is recommended for refusal due to the conflict of the proposal with Policies DM10, DM11 and DM12 of the SADMP DPD and section 16 of the NPPF.

10. Equality implications

- 10.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application.
- 10.3 There are no known equality implications arising directly from this development.
- 10.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

11. Recommendation

11.1 Refuse planning permission for the following reasons

12. Reasons

1. The development fails to complement or enhance the rural character of the surrounding area as a result of its design, location and urbanising effect. As a result the proposal is considered to be in conflict with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Section 12 of the National Planning Policy Framework (2023).
2. As a result of its design, location and urbanising effect the proposal is considered to have an adverse impact upon the verdant and rural character and appearance of the southern approach to the Twycross Conservation Area and the section of Sheepy Road contained within its boundaries, thus causing harm to its significance. The level of harm is considered to be less than substantial in terms of the NPPF and is not outweighed by public benefits and as such the proposal is in conflict with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Section 16 of the National Planning Policy Framework (2023).