Hinckley & Bosworth Borough Council

A Borough to be proud of

Town and Country Planning Act 1990

REFUSAL OF PLANNING PERMISSION

Name and Address of Applicant
Mr And Mrs Trivett
Drayton Barn Farm
Witherley
Warwickshire
CV9 3LR

Name and Address of Agent (if any)
Noah, Heeks And Partners
20 New Street
Lutterworth
Leics
LE17 4PJ

Part I - Particulars of Application

Date of Application	**Application No.**
29 May 2008	08/00553/FUL

Particulars and location of development:

CREATION OF CANAL BOAT MARINA WITH ASSOCIATED CAR PARKING, LANDSCAPING AND AQUATIC WILDLIFE AREA

Land At Junction Of Wellsborough Road And Congerstone Lane Market Bosworth Leicestershire

Part II - Particulars of decision

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. In the opinion of the Local Planning Authority, the application has not adequately demonstrated that the proposal will not impact on the Ashby Canal Site of Special Scientific Interest (SSSI), a designated site of national importance.

   The submitted information does not assess the impact the proposal may have on water quality, or address the increase in boat numbers and movements through the protected area due to the proposed development, which will have an adverse impact on the designated site. The amount of boat traffic within the Ashby Canal SSSI is already at a level that it is contributing to the poor ecological condition of the designated site. Therefore robust evidence which demonstrates that the application will not contribute further to the poor condition of the SSSI with a detailed explanation of the mitigation measures that would be put in place would need to be submitted to ensure that there is no damage to the SSSI. The detailed information would need to demonstrate that the mitigation was proportionate to the likely impact on the SSSI. Mitigation information should cover both methods of avoidance of impact (ie discourage boats from heading through the SSSI, and slowing their speed through the SSSI), and compensation. If the intention is that the proposed new wetland on the application site will compensate for the adverse impact on the SSSI then a detailed design scheme of the wetland (which specifies how the wetland will be created including details of species and an indication of the long term management including who will be responsible for such management) is required so that an assessment of whether or not the wetland will be sufficient to ensure that the proposed Marina does not have an adverse effect on the SSSI can be made. The additional information required would need to refer to the assessment of the scale of impact on the species for which the SSSI is designated, and show clearly that the habitat creation will compensate for this impact.

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

It is the opinion of the Local Planning Authority that, in the absence of sufficient detailed information, due consideration has not been given to the Ashby Canal SSSI and the development is therefore contrary to the requirements of Planning Policy Statement: 9 Biodiversity and Geological Conservation, Policy 27 of the Regional Spatial Strategy for the East Midlands (RSS8) and policies NE6 and NE7 of the adopted Hinckley and Bosworth Local Plan.

NOTES TO APPLICANT :-

1. List of plans used in the determination of this application;
Site location plan, The Environmental Impact Assessment, IP04_002_01/03 Rev E, IP04_002_01_004 Rev E, IP04_002_01/35, IP04_002_0/36, IP04_002_01/45 Rev A, IP04_002_16g, IP04_002_17D, IP04_002_01_44, IP04_002_01_458

T. M Prowse

TREVOR PROWSE
PROPER OFFICER OF THE COUNCIL

Date :3 March 2009

NOTES

1. It will be most helpful if the application number shown overleaf is quoted on all correspondence.

2. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission he may appeal to the Planning Inspectorate in accordance with Section 78 of the Town and Country Planning Act 1990 within **six months (see para 2a below)** of the date of this notice. (Appeals must be made on a form which is obtainable from the Planning Inspectorate, Room 305(K), Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or by telephoning 0117 372 6372). 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.

2a. 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.

3. 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.

4. 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.

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