

Planning History and Background Documents

Refusal notice for application 25/00695/FUL

Appeal decision

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

Refusal of Planning Permission

Name and Address of Applicant

Jack Hemmings
C/O Agent

Name and Address of Agent (if any)

Mr Robert Williams
Alder Mill Enterprise Ltd
Unit 6A Alder Mill Business Park
Sheepy Road
Atherstone
CV9 3AH

Part I - Particulars of Application

Date of Application	Application No.
15 July 2025	25/00695/FUL

Particulars and location of development:

Demolition of existing building, greenhouses and raised beds and erection of 2 dwellings

87 Barton Lane Nailstone Nuneaton Leicestershire CV13 0PY

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. The proposal creates new residential development in an unsustainable location in the designated open countryside and by virtue of its size, scale, design, height, siting, and footprint, the proposal represents the overdevelopment of a constrained site that exacerbates ribbon development in the countryside. As a result, the development fails to reflect local design policies and government guidance on design. This harm is heightened by the visual prominence of the development from Barton Lane and Public Footpaths S47 and S48, and the scheme's loss of all the existing landscaping and vegetation along the site's boundary with the public highway to facilitate the vehicular accesses.

Therefore, the scheme results in significant harm to the character of the site and the surrounding area, including the intrinsic value, beauty, open character, and landscape character of the designated open countryside. This is contrary to, and in conflict with, Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Chapter 12 and Key Policy Paragraphs 129 and 135 of the National Planning Policy Framework (2024), the National Design Guide (2019), and the Council's Good Design Guide (2020). The significant adverse effects of the proposed development significantly and demonstrably outweigh its potential benefits in these site-specific circumstances. In accordance with Key Policy Paragraph 139 of the National Planning Policy Framework, the planning application is refused.

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

2. The application site is in an unsustainable location, and the proposed scheme represents the development of isolated homes in an area of poor transport sustainability in the designated open countryside whereby the future occupiers of the scheme are highly likely to be dependent on private motorised travel to meet their day-to-day needs. This is considered to cause significant harm to the environment, and the intrinsic value, beauty, open character, and landscape character of the countryside.

By virtue of these factors, the proposal is contrary to, and in conflict with, the Chapters 2, 11, 12, and 15, and Key Policy Paragraphs 84 and 115 of the National Planning Policy Framework (2024), Policies DM4 and DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), HDM Policy 1 of the Leicestershire Highway Design Guide (2024), and the National Design Guide (2019).

NOTES TO APPLICANT :-

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

• Application Form	(submitted: 15.07.2025)
• Biodiversity Gain Plan V2	(submitted: 23.09.2025)
• BNG Metric V2	(submitted: 23.09.2025)
• BNG Technical Note (V3)	(submitted: 23.09.2025)
• Design, Access, and Planning Statement	(submitted: 15.07.2025)
• Existing Elevations (631 225 03)	(submitted: 15.07.2025)
• Existing Floor & Roof Plan (631 225 02A)	(submitted: 15.07.2025)
• Existing Site Plan (631 225 01)	(submitted: 15.07.2025)
• Individual Trees Condition Sheet	(submitted: 15.07.2025)
• Preliminary Roost Assessment (V2)	(submitted: 14.08.2025)
• Proposed Elevations (631 225 05F)	(submitted: 22.10.2025)
• Proposed Floor Plans (631 225 04H)	(submitted: 22.10.2025)
• Proposed Visibility Splays (07A)	(submitted: 01.10.2025)
• Site Location Plan (631 225 06A)	(submitted: 15.07.2025)

C. Brown.

Christopher Brown MRTPI
Head of Planning

Date :21 November 2025

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)

Appeal Decision

Site visit made on 16 March 2026

by K Craddock BA (Hons) MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th April 2026

Appeal Ref: 6003812

Land adjacent to 87 Barton Lane, Nailstone, Leicestershire CV13 0PY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Jack Hemmings against the decision of Hinckley & Bosworth Borough Council.
 - The application Ref is 25/00695/FUL.
 - The development proposed is demolition of existing building, greenhouses and raised beds and erection of 2no. two bedroom houses.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - a) whether the proposed houses would be in a suitable location for new residential development, having particular regard to the development strategy for the area and the accessibility of services and facilities; and
 - b) the effect of the proposed development on the character and appearance of the rural landscape and open countryside.

Reasons

Location of development

3. Policy 12 of the Hinkley & Bosworth Core Strategy (2009) (CS) establishes a spatial strategy where rural housing development will be supported within settlement boundaries. Policy DM4 of the Site Allocation and Development Management Policies DPD (2016) (SADMP) sets out types of development that the Council will consider sustainable for the purposes of locations in the countryside. The appeal site is located outside of any settlement boundary and does not meet any of the criteria set out in Policy DM4.
4. Policy DM17 supports development where, amongst other things, it ensures convenient and safe access for walking and cycling to services and facilities. Policy DM1 requires development proposals to be determined in accordance with the Local Plan, unless material considerations indicate otherwise, and where policies are out of date, any adverse impacts of granting permission should significantly and demonstrably outweigh the benefits when assessed against the National Planning Policy Framework (the Framework) as a whole.

5. The appeal site is located approximately 0.5km to the west of the rural village of Nailstone, which must be reached by crossing the A447, a busy and fast-trafficked main road with poor pedestrian visibility. The centres of Barlestone, approximately 2km to the south, and Ibstock, approximately 3.5km to the north, offer better services and can be accessed via the A447, although there are no pavements or lighting for the first half of the journey in either direction.
6. Barton Lane, on which the appeal site is located, requires pedestrians to walk on the road. Whilst the speed limit is 30mph immediately in front of the site and up towards the crossroads with the A447, it changes to the national speed limit at the western boundary of the site and, consequently, cars can be expected to be transitioning between these speeds at the point of leaving or entering the appeal site. At my site visit, the experience in daylight of walking along Barton Lane and the routes towards Barlestone and Ibstock was not pleasant. They would be especially unsafe and unattractive during nighttime hours or inclement weather. It is reasonable to assume, therefore, that people would avoid cycling or walking and would be highly dependent on the use of private motor vehicles.
7. My attention has been drawn to a bus service with stops located close to the appeal site. However, it offers a limited service and I do not find it would provide a realistic alternative mode of transport from the site.
8. There is disagreement between the parties as to the relevance of paragraph 84 of the Framework. The proposal would be located in the midst of a row of three dwellings. Such a group do not form a readily identifiable rural community and they are detached from the settlement of Nailstone. Therefore, in my judgement, the proposed dwellings would be isolated for the purposes of paragraph 84 of the Framework. There is no compelling evidence before me to suggest that the proposal would fall within any of the circumstances that are set out at paragraph 84 where isolated dwellings are supported.
9. In conclusion, having regard to the spatial strategy as set out in the development plan, and the poor accessibility of the site to services and facilities, I find that the appeal site would not be a suitable location for residential development and would conflict with Policy 12 of the CS and Policies DM1, DM4 and DM17 of the SADMP. It would also be contrary to the relevant sections of the Framework which promote sustainable development in rural areas.

Character and appearance

10. Policy DM4 of the SADMP requires new development in the countryside to safeguard its character and intrinsic value. Policy DM10 requires new development to complement or enhance the character of the surrounding area through scale, layout and mass, amongst other things.
11. When travelling along Barton Lane the pervading sense is of being surrounded by fields and hedges on both sides of the road. When moving towards along the lane away from Nailstone and towards the site, the few dwellings are either separated by fields, spacious gardens or discernible spaces between the buildings. With the exception of Hawthorn Cottage, 99 Barton Lane, these dwellings would be set back further from the road than the proposed dwellings with established landscaping softening the appearance of each plot. These factors all contribute positively to the character of this part of the rural area. The proposed layout, scale

and mass of the proposal would not reflect the spaces between the buildings that characterise the lane.

12. I walked public footpath S47 to the south of the site and agree the proposed development would be highly visible. I also consider that the layout of the site would cause the built form to appear as a continuous run of development when viewed in the context of 85-87 Barton Lane and 99 Hawthorn Cottage. The views from public footpath S48 to the north were less direct and I found that the undulations of the land and mature hedging bordering the fields would mitigate clear views of the whole site, leaving only the roofs and upper parts of the proposed dwellings visible.
13. Therefore, I conclude that the proposed development would be harmful to the visual appearance and open character of the rural area and conflict with Policies DM4 and DM10 of the SADMP.

Other Considerations

14. When considered against the harm identified, there would be limited benefits associated with the development identified by the appellant. Minor economic benefits would be achieved during construction. Given the proposals would provide for only two dwellings I find these benefits add limited weight in favour of the proposals. Likewise, I find the potential employment opportunities outlined in the appellant's statement to be limited and apportion them little weight.
15. Both parties agree that the Council is unable to demonstrate a five year housing land supply. In these circumstances, footnote 8 of the Framework establishes that the policies which are most important for determining the appeal are out of date. The appeal site is not within an area protected by the policies identified in footnote 7. Accordingly, paragraph 11d)ii of the Framework is engaged.

Planning balance

16. I have found that the proposals would cause harm to the principles of the spatial strategy in the CS. The proposals would provide for two dwellings in the open countryside, outside any defined settlement and with the only practicable access to local services and facilities possible by private vehicle. I have also found that the dwellings would harm the intrinsic rural character of the site and its surroundings by introducing built form into the open countryside. Accordingly I find conflict with Policy 12 of the CS and Policies DM1, DM4, DM10 and DM17 of the SADMP.
17. A number of housing land supply figures are before me, however, even were I to take the lowest of these, the provision of two additional dwellings would nevertheless attract limited weight.
18. Permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations. In this respect, footnote 9 directs me to paragraph 84 of the Framework. As an isolated dwelling which does not meet any of the circumstances identified in that paragraph, the proposals do not accord with the Framework in this regard. As described above, the benefits associated with two dwellings would be limited, even taking into account the Council's housing

land position and the objective in the Framework for significantly boosting the supply of new homes.

19. Accordingly, the adverse impacts of two isolated dwellings, of increasing travel by private vehicles, and in causing harm to the open, rural character of the area would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of development does not apply.

Other Matters

20. I agree with the Council that part of the site can be considered as previously developed land. However, as I have concluded that the proposals would not be in an appropriate location nor compliant with the development plan, this is not a relevant consideration.
21. The Council has submitted the Landscape Character Assessment in evidence, however, as this does not form part of the reasons for refusal it has not been determinative.
22. I note that the Council's statement considers that the proposals fail to provide a sufficient provision of outdoor amenity space. These concerns were not raised in the Officer's Report, which concludes the minor departure from the minimum depth standards would not result in any significant adverse impacts upon the living conditions of the future occupants owing to the overall area covered by the gardens. Therefore, I have not taken these concerns into consideration in determining this appeal.
23. Both parties have drawn my attention to other appeals. Whilst I have taken these into account, I am not aware of the full circumstances of these other cases and, in any event, each scheme must be considered and determined on its individual merits.

Conclusion

24. For the reasons given above, the proposals do not accord with the development plan as a whole and there are no other considerations that indicate I should take a decision other than in accordance with it. Accordingly, the appeal is dismissed.

K Craddock

INSPECTOR