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 R. Barton
23 Cherry Orchard Estate
Higham on the Hill
Nr Nuneaton
Leicestershire
CV13 6AF

Name and Address of Agent (if any)

Part I - Particulars of Application

Date of Application	**Application No.**
3 October 2011	11/00751/CONDIT

Particulars and location of development:

VARIATION OF CONDITION 4 OF APPEAL DECISION FOR PLANNING APPLICATION NO 09/00703/FUL TO ALLOW AN OPEN ABLE WINDOW WITHIN THE SOUTH ELEVATION TO SERVE BEDROOM NO.2

23 Cherry Orchard Higham On The Hill Nuneaton Leicestershire CV13 6AF

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 proposed variation of Condition 4 of planning permission 09/00703/FUL is considered to result in a development that would have a significant adverse impact on the privacy and amenities of the occupiers of the neighbouring property 22 Cherry Orchard in terms of overlooking. It is therefore considered to be contrary to Saved Policies BE1 and RES5 of the adopted Hinckley and Bosworth Local Plan and adopted Supplementary Planning Guidance on New Residential Development.

NOTES TO APPLICANT :-

1. The applicant is advised that this application sought to allow a variation Condition 4 of planning application reference 09/00703/FUL that relates to the south facing bedroom window only. Therefore the amendment indicated to the bathroom window on submitted Elevations Drawing by James Beeston has not been assessed as part of this application. The development must therefore be implemented in accordance with the details of the bathroom window on the previously approved plan Drawing No. BAR02 Revision F.

Date :28 November 2011

BILL CULLEN
PROPER OFFICER OF THE COUNCIL

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

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 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, by telephoning 0117 372 6372 or online at www.planningportal.gov.uk/planning/appeals/). 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.

4. 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.

5. 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