

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

Refusal of Planning Permission

Name and Address of Applicant

Mr & Mrs Gagin
Polebrook Estates
33A Rolleston Road
Billesdon
Leicester
LE79EP
UK

Name and Address of Agent (if any)

Simon Cheshire BA(Hons) DipTP MRTPI
Simon Cheshire Planning Ltd
34 Stanley Road
Market Bosworth
Nuneaton
CV13 0NB
United Kingdom

Part I - Particulars of Application

Date of Application

8 December 2023

Application No.

23/01195/FUL

Particulars and location of development:

Proposed dwelling with detached garage and creation of new access (Resubmission 22/01071/FUL) (Self Build)

Land North East Of The Hovel Spinney Drive Botcheston Leicestershire

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 application site is located outside any identified settlement boundary and within the open countryside, where new, unrestricted residential development is not considered sustainable development. The scheme, by virtue of its size, scale, volume, massing, and layout is considered to result in an urbanising and significantly adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside resulting in significant harm to the character and appearance of the site and surrounding area. Overall, the benefits of the development of one residential dwelling are not considered to outweigh the significant and demonstrably adverse impacts of the scheme to the intrinsic value, beauty, open character, and landscape character of the countryside. Consequently, the development is contrary to, and in conflict with, Policies DM1, DM4, and DM10 of adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy 13 of the adopted Core Strategy (2009), Policy H1 of the Desford Neighbourhood Plan, Paragraphs 8, 83, 84, 128(c), 135(c), 180 and Sections 9, 11, 12, and 15 of the National Planning Policy Framework (Dec 2023), and the Good Design Guide.
2. The unsustainable location of the proposed dwelling is considered to result in the future occupants of the scheme having limited access to facilities, services, employment and retail needs, and sustainable

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modes of transport, and being reliant upon the use of private motor vehicles. This is not considered to create an accessible development that promotes health and wellbeing for its future users, which is contrary to, and in conflict with, Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document, Paragraphs 8(c), 128(c), and 135(f), as well as Sections 9, and 12 of the National Planning Policy Framework (Dec 2023).

NOTES TO APPLICANT :-

1. The application has been determined in accordance with the following submitted details:
 - o Site Location Plan (submitted: 08.12.2023)
 - o Block Plan (submitted: 08.12.2023)
 - o Landscaping/ Site Plan (submitted: 08.12.2023)
 - o Proposed Floor Plans and Elevations (submitted: 08.12.2023)

C. Brown.

Christopher Brown MRTPI
Head of Planning

Date: 1 February 2024

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. As this is a decision to refuse planning permission for a householder application, if you want to appeal against your Local Planning Authority's decision then you must do so within 12 weeks of the date of this notice. (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 Householder 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. 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)