

Planning Committee 5 December 2017
Report of the Planning Manager Development Management

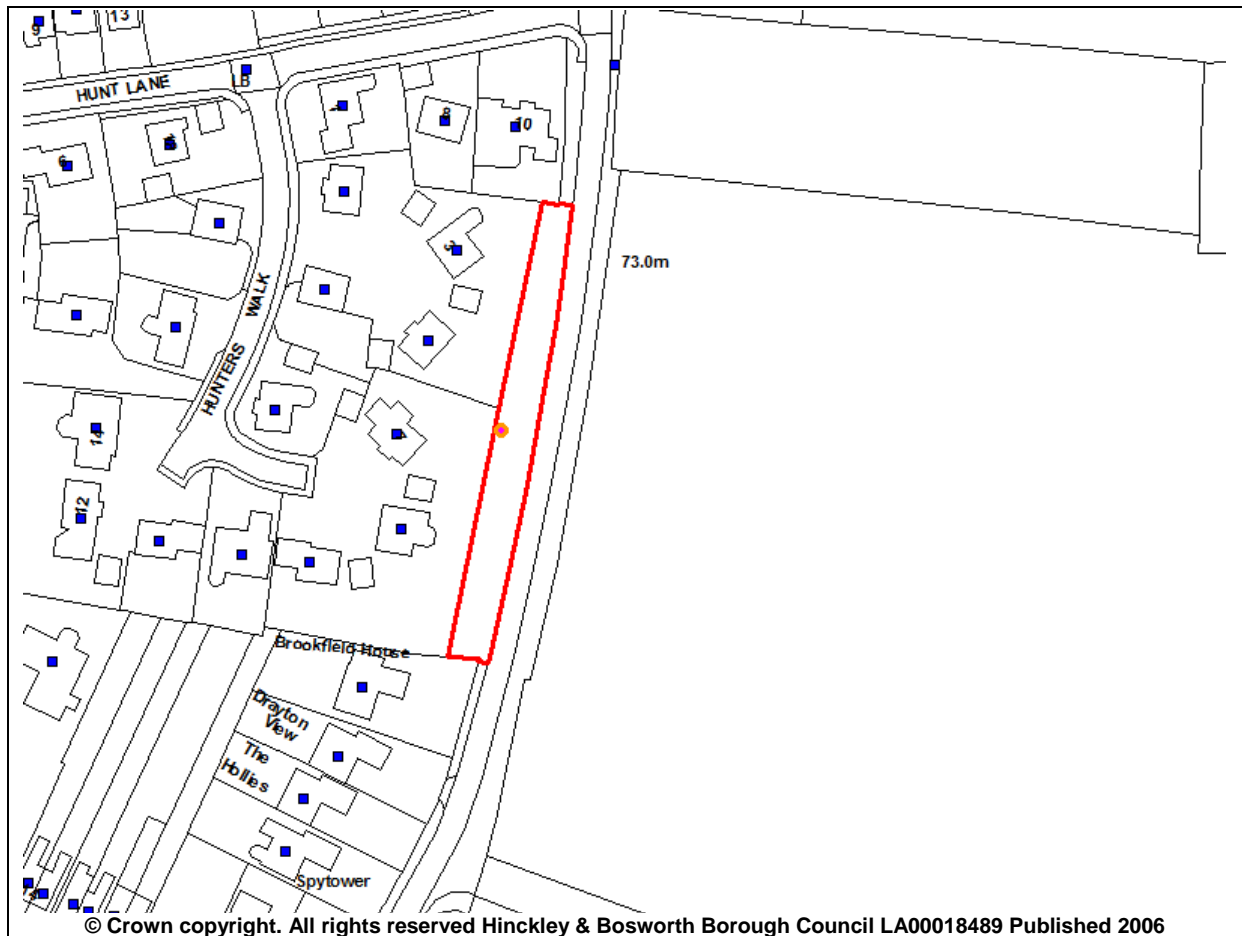
Planning Ref: 17/00776/FUL
Applicant: Dr David Hickie
Ward: Twycross Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: 7 Hunters Walk Witherley Atherstone

Proposal: Erection of timber post and wire fence adjacent to Kennel Lane
(resubmission of 17/00310/FUL)



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

1.2. That the Planning Manager Development Management be given powers to determine the final detail of planning conditions.

2. Planning Application Description

2.1. The application site is adjacent to Kennel Lane, a C Road which is the main access road into the rural village of Witherley from the A5 and is within the settlement boundary. The proposal is to erect a timber and post fence measuring 1.05m in height and 100m in length and the planting of native hedgerow in the ditch which is located to the rear of no's 3, 4, 7 and 8 Hunters Walk. It is proposed to erect the

fence and plant the hedgerow to act as deterrence for intruders in the Hunters Walk area of Witherley Village.

- 2.2. This application is a resubmission of a previously withdrawn application (17/00310/FUL); the key change in the application is the height of the wire and timber fence that would border the highway which at 1.05m is classed as development and requires full planning permission.
- 2.3. This application was originally considered at Planning Committee on 10 October where Members were minded to refuse the application (contrary to officers' recommendation). Amended plans have been received from the applicant annotating the exact width of the ditch along the site and providing further clarification of land ownership. The width of the ditch varies from approximately 4.10 metres to a maximum of 6.5 metres with the proposed fence set approximately a distance of 1.5 metres from Kennel Lane.

3. Description of the Site and Surrounding Area

- 3.1. The entrance to Witherley along Kennel Lane is characterised by open grass verges on either side of the highway. On the western side of the highway where the proposal would be located, this open aspect is broken only by residential brick walls at Brookfield House to the south and no. 10 Hunt Lane to the north.
- 3.2. The grass verges are currently of a width which allows it to serve as an unofficial footpath into the village and serve as a verdant and pleasant introduction to the rural village. The ditch offers a subtle contrast to the verge where scattered vegetation is in evidence; beyond the ditch, the land level rises and a thick hedgerow grows along the boundary with the residential properties of Hunters Walk.

4. Relevant Planning History

17/00310/FUL	Change of use from highway ditch and verge to private land with roadside fence and hedge.	Withdrawn	21.06.2017
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5. Publicity

- 5.1. No additional publicity has taken place since this application was last presented at planning committee on 10 October 2017.
- 5.2. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.3. Nine letters of objection have been received, the objections are summarised below:
 - 1) Encroachment on public space for the benefit of private landowners as effective increase of their residential curtilage
 - 2) Harm the visual appearance of the entrance to the village
 - 3) Prevent any future use as a footpath
 - 4) The proposal would narrow the road area and harm highway safety
 - 5) Security concerns within the immediate area have been overstated as part of the rationale for the application
 - 6) Highway concerns which have formed part of the rationale for the application are erroneous
 - 7) Concerns regarding future maintenance of ditch and resultant impact on its role as storm run soak away area
- 5.4. 14 letters of support from nine different addresses which support the proposal have been received. These are summarised below:

- 1) Will provide additional security for the wider area
- 2) Will act as a traffic calming measure
- 3) Will regularise the highway boundary
- 4) Will be a visual improvement
- 5) Will support greater biodiversity

6. Consultation

6.1. No additional consultation has taken place since this application was last presented at planning committee on 10 October 2017.

6.2. No objections have been received from:

LCC Ecology Unit subject to there being no removal of native vegetation as part of the proposal. The applicant has since confirmed in writing that no native vegetation will be removed.

LCC Highways – The Highways authority have made the note that the applicant will be required to apply to stop up the highway under S247/S116.

HBBC Drainage – The planting of a new native hedgerow at the top of the bank should not affect the infiltration capacity of the drainage ditch. It should be noted that responsibility for maintenance of the drainage ditch would transfer with any change of land ownership, unless other arrangement for maintenance of the ditch are put in place.

6.3. One objection was received from:

Witherley Parish Council who objected on the following grounds:

- 1) Concern that this application could serve as a precedent for future loss of public amenity space
- 2) Security concerns within the immediate area have been overstated as part of the rationale for the application.
- 3) Highway concerns which have formed part of the rationale for the application are erroneous.
- 4) Concerns regarding future maintenance of ditch and resultant impact on its role as storm run soak away area.
- 5) Encroachment on public space for the benefit of private landowners

7. Policy

7.1. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design

7.2. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety

Design and impact upon the character of the area

- 8.2. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.3. The 1.05m proposed timber post and wire fence would be positioned at the top of the ditch, would be approximately 100m in length and would effectively regularise the highway boundary which currently projects forward to the north and south at Brookfield House to the south and no.10 Hunt Lane to the north. The hedgerow which would be planted within the ditch and form a second line of hedging to the rear of no's 3, 4, 7 and 8 Hunter's Walk would, following advice from LCC Ecology, consist of a native hedgerow mix with a predominance of Common Hawthorn.
- 8.4. The current green verge which serves the rural village of Witherley both aesthetically in that it offers a pleasant and green introduction to Witherley and practically in that it provides an access route to the village for pedestrians, would remain effectively unaffected in terms of its width. The small scale and open aspect of the proposed fencing aligned with the planting of the native hedgerow would ensure there would be no undue harm to the character of the area. It is also considered that the planting of new hedgerow within the ditch would not act as significant change to the character of the area but rather merely replicate the previously existing situation pre-2014 when the ditch was cleared.
- 8.5. It is considered that the proposed development would complement the existing character and appearance of the surrounding built form and would be in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.6. DM10 of the SADMP seeks to ensure that developments will have no significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.7. Improving the security of residents is a material planning consideration. As part of the application, it has been stated that the erection of the fencing with the associated hedgerow would serve as an additional deterrent to intruders to the rear of Hunters Walk. As part of the Design and Access statement provided by the applicants, it has been alleged that there has been an increase in criminal activity in the vicinity of Hunter's Walk since the clearance of the previous line of hedging that once occupied the ditch along Kennel Lane. This assessment has been queried by objectors. In light of the absence of robust evidence of a direct connection between crime and the removal of the hedgerow, it is considered that this issue is given no weight in the conclusions of this report.
- 8.8. The small scale nature of the application and the significant separation distance to the nearest neighbouring properties ensures there would be no undue impact on neighbouring residential amenity. Furthermore, as the green verge would be effectively preserved, it is considered that pedestrian access to the village via the verge would not be harmed.
- 8.9. Therefore in regard to residential amenity the proposal is considered to comply with Policy DM10 of the SADMP.

8.10. Ecology

DM6 of the SADMP seeks to ensure that development proposals demonstrate how they conserve and enhance features of nature conservation and geological value including proposals for their long term future management. The removal or damage of such features shall only be acceptable where it can be demonstrated that the

proposal will result in no net loss of biodiversity and where the integrity of local ecological networks can be secured.

- 8.11. The proposal received no objection from LCC Ecology who requested a new native hedgerow to be planted and to be of the greatest value for wildlife recommended a suitable species mix. The necessity for this planting mix has been addressed as part of the application and overall it is assessed that the proposal would see a net gain in terms of biodiversity. Moreover, no existing vegetation is to be removed as part of the development which again is in line with the recommendation of LCC Ecology and DM6 of the SADMP.

Impact upon Highway Safety

- 8.12. DM17 requires, amongst other things, that proposals do not have a significant impact upon highway safety.
- 8.13. As part of the application, the argument has been made that permission for the 1.05 metre high fence and hedging would serve as a traffic calming measure as it would lessen the visual expanse for drivers along Kennel Road and encourage slower driving. The underpinning of this appraisal has also been queried by objectors. LCC Highways offered no comment regarding the issue of whether the development would impact on driver behaviour and improve highway safety. Again there is an absence of robust evidence to give the Local Planning Authority confidence that the fence and hedging would impact on highway safety either in a positive or negative manner. The preservation of the verge adjacent to Kennel Road and the set back nature of the hedging would, however, mean any impact on behaviour of drivers along this stretch of highway would not be significant.
- 8.14. It is not considered that the application would cause a narrowing of the road area as the fencing and hedging would remain distinctly setback from the highway.
- 8.15. The proposal would not result in the loss of any off-street or on-street parking spaces therefore the proposal would comply with Policy DM17 and DM18 of the SADMP.

Other matters

- 8.16. It is assessed that the comments by HBBC Drainage demonstrate that the erection of the timber post and wire fence with the planting of native hedgerow in the ditch which is located to the rear of no's 3, 4, 7 and 8 Hunters Walk would not affect the capacity of the drainage ditch to act as a storm soak away area which was a concern expressed by several objectors.
- 8.17. The existing use of the land is classed as highway land and LCC Highways are empowered to maintain such land; a successful planning application is therefore required before a stopping up order can be issued to allow the applicants the right to maintain this site. The application is not for incorporating the land within the applicants' residential curtilage and this concern cannot inform the conclusion of this report.
- 8.18. In regards to the concern that this application may serve as a precedent for the loss of other grass verges in the borough, not only is it considered that no such loss would occur here but furthermore differing sites will be subject to individual circumstances and site contexts. Each application is determined on its individual merits and therefore approval of this application would not set a precedent.

9. Equality Implications

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

(1) 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.

9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

10. There are no known equality implications arising directly from this development.

Conclusion

10.1. The proposed development would respect the character of the wider area and would not adversely affect the amenities of the occupiers of neighbouring properties or have an adverse ecological impact or impact on highway safety. The application is considered to be in accordance with Policies DM1, DM6, DM10 and DM17 of the SADMP and is therefore recommended for approval subject to conditions.

11. Recommendation

11.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

11.2. That the Planning Manager Development Management be given powers to determine the final detail of planning conditions.

11.3. Conditions and Reasons

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 51 of 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:

Location Plan (scale 1:1000)

Landscape Plan (V4) (scale 1:50)

received by the Local Planning Authority on 1 November 2017

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

3. The land to which this permission relates shall not be used in connection with the residential curtilage of No's 3, 4, 7 and 8 Holliers Walk and shall not be used for the washing lines or other similar items ancillary to the use of the dwellinghouses. This land shall remain planted and maintained at all times in

accordance with the approved plans and used for no other purpose other than a native hedgerow landscaped area.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

4. The existing boundary treatment to the rear gardens of No's 3, 4, 7 and 8 Holliers Walk shall not be removed, unless replaced by a boundary of a similar height and appearance. The boundary shall remain in place at all times and not be removed to extend the residential curtilages into the land which is the subject of this planning permission.

Reason: To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

11.4. **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. The Highways authority reminds the applicants that they will be required to apply to stop up the highway under S247/S116 before undertaking development.