

Planning Committee 5 July 2022
Report of the Planning Manager (Development Management)

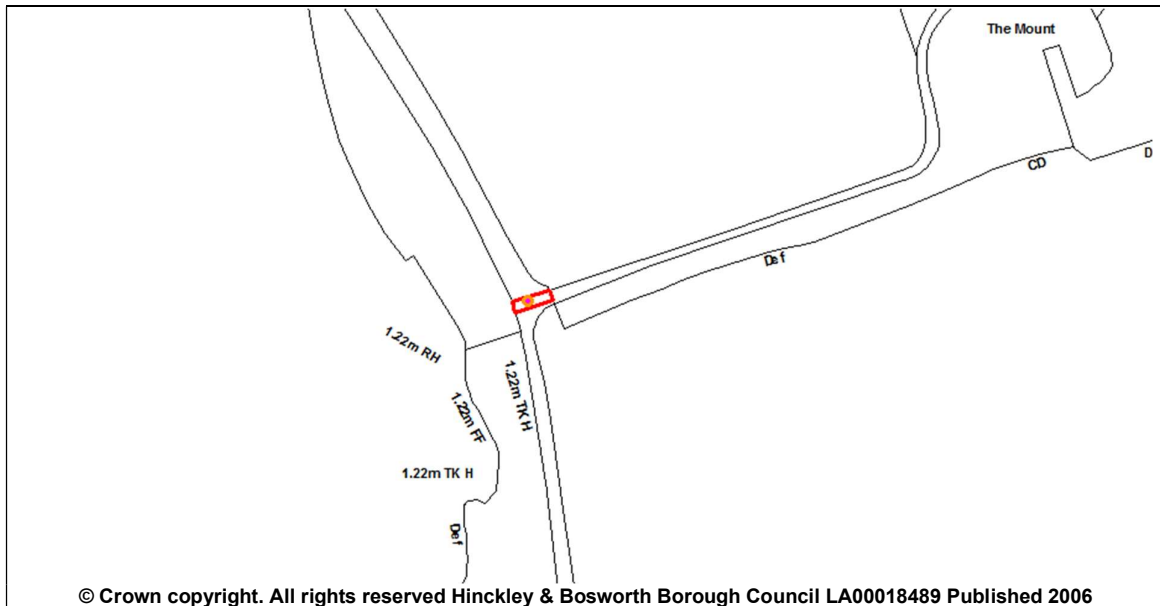
Planning Ref: 22/00078/FUL
Applicant: Mr S Chaudry
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Land North Of Lindley Wood Fenn Lanes Fenny Drayton

Proposal: Construction of entrance gates and wall (Part Retrospective)



1. Recommendations

- 1.1. Grant planning permission subject to
- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. The application seeks retrospective permission for entrance gates and a wall. The wall part of the development has been built. The wall is 2m in height, the gate is proposed to be a double swing gate 1.8m high stained in a timber colour. The access is connected to the applicant's commercial storage of plant, machinery and skips business.

3. Description of the site and surrounding area

- 3.1. The application site is located approximately 1km to the east of the hamlet of Fenny Drayton and south of Fenn Lanes and is accessed via a single track unadopted lane which serves the application site, agricultural buildings, uses and dwellings within this area. Surrounded by open fields this gives the area its rural character.
- 3.2. The access is connected to the applicant's commercial storage of plant, machinery and skips business. A Certificate of Lawfulness application for continued use of land for commercial storage was refused under 22/00194/CLE on the 18.05.2022

- 3.3. The site is within the Sence Lowlands area, as defined by the Council's Landscape Character Assessment (2017). This area is characterised as having a flat and gently rolling landscape. The site is adjacent to the single un-adopted track and partially screened by a hedgerow and trees. Nevertheless, views can be obtained from the track through the site into the distant countryside beyond. Some views can also be obtained of the gate and wall from Fenn Lane to the North.

4. Relevant planning history

15/00037/OUT

- Erection of up to 11 dwellings (outline - access and layout only) (revised proposal)
- Outline planning permission
- 07.10.2016

19/00462/REM

- Approval of reserved matters (appearance, landscaping and scale) of outline planning permission 15/00037/OUT for residential development of 11 dwellings
- Approval of Reserved Matters
- 20.12.2019

22/00194/CLE

- Certificate of Lawful Existing Development for continued use of land for commercial storage of plant, machinery and skips
- Refused
- 18.05.2022

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice. Seven objection letters have been received as a result of the publicity making the following comments:

- 1.) The construction of the gates and wall is in close vicinity to and has I believe damaged an important hedgerow.
- 2.) The gate and wall are totally out of keeping with the rural area they are in.
- 3.) They seem positioned to block off the access to other properties off the Fenn Lane. The purpose of which is not clear.

- 4.) If these gates and walls have already been erected then we believe enforcement should look to getting them removed. Not only is it inappropriate development in open countryside it is causing problems for nearby residents.
- 5.) The gates are already higher than the planning proposals and are not suitable for this rural area.
- 6.) Another concern is that these will be used to restrict our access further.
- 7.) The gates are unsuitable for a rural area. They are too high and look out of keeping for the locality.
- 8.) If this gateway is given permission my other concern is that this developer will use the gateway to restrict access as he sees fit, to everyone including the emergency and council services if they are ever required. He has already restricted my access from the access road to my plot of land and this will just be more leverage for him.

6. Consultation

- 6.1. No objection has been received from:
 - LCC Highways
- 6.2. Witherley Parish Council raised an objection to the proposal on the following grounds:
 - The decimation of trees and hedgerows impacts on the local biodiversity.
 - The brickwork and gates are no in keeping with the surrounding countryside.
 - Could also impact on the residents who live on the other side of the gates.

7. Policy

- 7.1. Core Strategy (2009)
 - Policy 13: Rural Hamlets
- 7.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.2. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2021)
 - Planning Practice Guidance (PPG)
- 7.3. Other relevant guidance
 - Good Design Guide (2020)
 - National Design Guide (2019)
 - Leicestershire Highways Design Guide
 - Landscape Character Assessment 2017

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 DM4 of the SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and it does not undermine the physical and perceived separation and open character between settlements; and it does not create or exacerbate ribbon development.
- 8.3 Policy DM10 of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.4 The site is within Landscape Character Assessment Area (LCA) G: Sence Lowlands, identified by the Borough Council's Landscape Character Assessment (2017). The key characteristics of this LCA are flat to gently rolling lowland vale landscape, well-ordered agricultural landscape with a regular pattern of rectilinear fields and small villages with a strong sense of place. The proposed area would be typical of these characteristics forming a rectilinear field. The key sensitives of this area include a rural character with a lack of significant intrusions or light pollution, biodiversity value of the grass verges/species-rich grassland and the relatively intact field boundary pattern.
- 8.5 Fenn Lane is located to the North of the Entrance Gate and Wall. There is a gap of approximately 380m from Fenn Lane to the Gate and Wall with trees directly south. The visual impact of the Gate and Wall will be largest when viewed from Fenn Lane. Nonetheless, the trees directly south behind the Gate and Wall soften the landscape impact. This is coupled with the 380m distance from the Fenn Lane. The scale of the Gate and Wall represents a form and scale of development which is characteristic with the open countryside.
- 8.6 Entrance gates and wall are not uncommon in the open countryside, the height and appearance of the fence and wall is a simple design is not considered to be out of character in an area which is predominantly countryside. The gate and the wall are shorter in length than the fence to the south and therefore the landscape impact is considered smaller. The gate and wall are of a modest design of a type that is not uncommon within the open countryside. Consequently, the gate and wall are not considered to significantly harm the character and appearance of the area to an extent that requires refusal or amendment of the application.
- 8.7 The proposal due to its scale and distance from Fenn Lane would not detract significantly from the character and appearance of the countryside and landscape of which it forms a part. The proposed development complies with policies DM4 and DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.8 Policy DM10 of the SADMP seeks to ensure that development proposals do not harm the amenity of neighbouring residential properties and that the amenity of occupiers of the proposed development would not be adversely affected by the activities in the vicinity of the site.
- 8.9 The gate and wall is set away from any neighbouring residential properties. The proposal would therefore have a minimal impact on residential amenity in compliance with policy DM10 of the SADMP.

Impact upon highway safety and parking

- 8.10 Policy DM17 of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.
- 8.11 The Local Highway Authority have been consulted on the application. After consideration of the submitted plans the Local Highway Authority (LHA) does not believe the proposed application will result in a material change in the character of traffic in the vicinity of the site or create any highway safety issues and therefore the LHA have no comments to make. Given the above the Gate and Wall are acceptable in relation to highway safety and complies with paragraph 108 of the NPPF and policy DM17 of the SADMP.

Other Issues

- 8.12 There has been concerns raised regarding the restriction of the access impacting on neighbouring properties. The access serves five dwellings to the south east.
- 8.13 Any dispute regarding access is a civil matter between the relevant parties and the applicant. It is not a material planning consideration and therefore cannot be given weight in any planning decision.
- 8.14 Nonetheless, it must be stated that even if planning permission was granted for the entrance gates any private right of way agreement for any of the properties would still have to be adhered too.
- 8.15 Due to the type and scale of development an Ecology Survey is not required.

Equality implications

- 8.16 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.

8.17 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.

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

8.19 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

9. Conclusion

9.1 The proposal, due to its form, scale and distance from Fenn Lane, would not detract from the character and appearance of the countryside and landscape of which it forms a part. The proposed development complies with policies DM4 and DM10 of the SADMP.

10. Recommendation

11.1 **Grant planning permission** subject to

- Planning conditions outlined at the end of this report

11.2 **Conditions and Reasons**

1. The development hereby permitted shall be in accordance with the submitted application details, as follows: Entrance Gate and Wall - Drg No. A847-05 and Site Location Plan - Drg No. A847-06 received by the local planning authority on the 27th January 2022.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).