

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

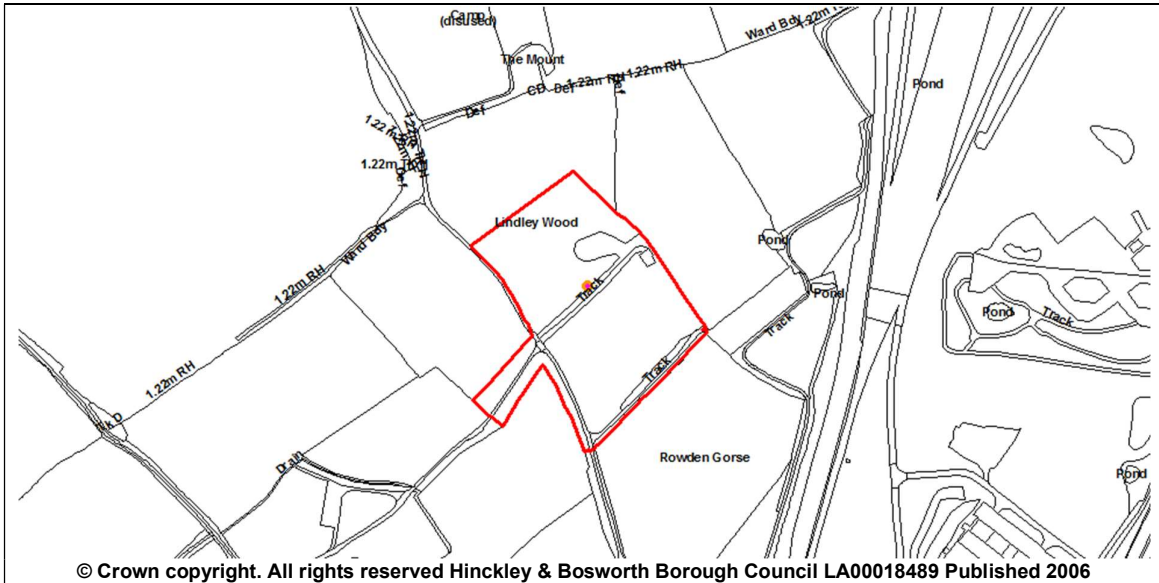
Planning Ref: 22/00079/FUL
Applicant: Mr S Chaudry
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Land South Of Lindley Wood Fenn Lanes Fenny Drayton

Proposal: Erection of palisade fencing (Retrospective)



1. Recommendations

1.1. **Refuse planning permission** subject to the reasons at the end of this report.

2. Planning application description

2.1. The application seeks retrospective permission for palisade fencing at a height of 2.4m. The palisade fence is painted olive green and includes concrete hard standing in front. The length and position of the palisade fence is shown on the Location Plan attached to the application.

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 un-adopted 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, of which the appeal site complements and contributes towards. 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 site from Lindley Hall Farm to the South. Due to its open character the site makes a positive contribution to the rural character and appearance of the area.

4. Relevant planning history

09/00592/C

- Application dealt with by County for the creation of a composting site
- Refused 24.11.2009
- Dismissed on appeal reference: APP/M2460/A/10/2128382/NWF 11.04.2007

14/00320/COU

- Application for change of use of land to a plant storage yard including conversion of existing building to office and accommodation.
- Submitted 28.03.2014.
- Application returned on the 11.10.2016 and therefore not determined

15/00037/OUT

- Erection of up to 11 dwellings (outline - access and layout only) (revised)
- Approved 07.10.2016

19/00462/REM

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

22/00194/CLE

- Proposal: Certificate of Lawful Existing Development for continued use of land for commercial storage of plant, machinery and skips.
- Refused 18.05.22

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. Seven objection letters have been received as a result of the publicity making the following comments:

- 1.) The actual height of the fencing is over the permitted 2m and has been standing for several months now.
- 2.) Visual impact to the landscape is massive with vast amounts of woodland being removed to be replaced by galvanised steel fencing that is totally out of keeping with this rural area.
- 3.) The loss of trees where the fence stands has also created extra noise disturbance to residents and causes excess water to run onto the shared track due to the natural absorption process being taken away, Visual amenity is also compromised by the large steel industrial gates which include signage and concrete ramps. The sheer size of these gates indicates the size vehicles which are intended for this compound.

- 4.) Highway Safety issues, there is a potential accident waiting to happen on a single track that serves four residential properties not to mention access onto the Fenn Lanes.
- 5.) Vast amounts of trees were removed to clear way for this fencing which forms heavily stoned compounds. This has greatly affected the wildlife that used to live here. Any reports or surveys carried out on the land are only applicable to the piece of land where planning was given for the houses.

6. Consultation

6.1. No objection has been received from:

- LCC Highways

Witherley Parish Council raised an objection to the proposal on the following grounds:

- 1.) The proposal has had a massive impact on local biodiversity through the total eradication of ancient woodland, hedgerows and shrub undergrowth. Many species have been affected by loss of natural habitat.
- 2.) Google earth will demonstrate the huge loss of woodland to the barren site.
- 3.) There is a permitted planning application for houses which has not been developed and no plans to now this site has been totally cleared and other parts of the area also enclosed by fencing.

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 DM12: Heritage Assets
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

7.4. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- 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 The site is located close to Fenn Lanes. There are boundary trees and hedges along the front boundary partly screening the proposal from the road. However there is a gap in the trees and hedges from where the access is positioned which makes the proposal visible from Fenn Lanes. The fencing replaces open land void of an urban structure this is in addition to the hardstanding that has been laid down which contributes to the urbanisation of the site. The proposal represents a form of which is uncharacteristic with the open countryside and with no connection to the surrounding fields. The proposal results in the loss of this part of the countryside, urbanising the site.
- 8.6 Although fencing is not uncommon in the open countryside, the height and unsightly appearance of the palisade design is out of character in an area which is predominantly countryside. There has been no attempt, to mitigate, for example, with planting. As a result, the proposal would harm the character of the previously undeveloped field due to its high visibility and the nature of its surroundings. Consequently, the proposal would harm the character and appearance of the area.
- 8.7 The proposal does not make a positive contribution to the character and appearance of the countryside and landscape of which it forms a part. The proposed development urbanises the site and results in the loss of this area of countryside to development in conflict 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 fence 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 Paragraph 108 of the NPPF outlines that in assessing specific applications for development, it should be ensured that a safe and suitable access to the site can be achieved for all users.
- 8.12 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.
- 8.13 Given the above the fencing is acceptable in relation to highway safety and complies with paragraph 108 of the NPPF and policy DM17 of the SADMP.

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.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 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).

10. Conclusion

- 10.1. The fencing is inappropriate development for the open countryside setting with the type of fencing (Palisade) more appropriate to an industrial site. It would contribute to urbanising the site and would harm the intrinsic, open, relatively undeveloped character of the countryside. The proposal is therefore in conflict with policies DM4 and DM10 of the SADMP.

11. Recommendation

11.1 **Refuse planning permission** subject to the reason set out below;

11.2 The development constitutes a form of uncharacteristic development that significantly harms the open character and appearance of the application site and thus erodes part of the intrinsic value and beauty of the countryside, contrary to Policies DM4 and DM10, of the Site Allocations and Development Management Policies Development Plan Document (2016).