

Hinckley & Bosworth Borough Council

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 (“the Act”)

(As amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE – OPERATIONAL DEVELOPMENT

ISSUED BY: HINCKLEY & BOSWORTH BOROUGH COUNCIL (“The Council”)

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of section 171A (1) of the above Act, at the land described below. They consider that it is expedient to issue this notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. THE LAND TO WHICH THE NOTICE RELATES

4 Shilton Road, Barwell, Leicester, Leicestershire, LE9 8HA (the “Land”) shown edged in red on the attached plan (the “Plan”).

3. THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL

Without planning permission, the creation of a new vehicular access from the Land onto a classified road (Shilton Road) shown in photographs attached at **Appendix 1** of this notice.

4. REASONS FOR ISSUING THIS NOTICE

The above breach of planning control has occurred within the last four years.

The location of the unauthorised vehicular access and egress from, or to, the classified road (Shilton Road); is detrimental to highway safety and therefore in conflict with Policy DM17 of the Site Allocation and Development Management Policies DPD and paragraph 111 of the NPPF (2023).

The Council has already considered and refused planning permission for the formation of a new vehicular access in this location (planning reference 19/00640/HOU), due to the danger a new access would cause to highway safety in this location. There has been no significant

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change in circumstances to alter the Council's view since their refusal of planning permission. As such, planning conditions could not overcome these objections to the development. A copy of decision reference 19/00640/HOU is attached as **Appendix 2** of this notice.

5. WHAT YOU ARE REQUIRED TO DO

Close the access for vehicular use with a fence or wall not exceeding 1 metre in height from ground level.

6. TIME FOR COMPLIANCE

Six months from the date this notice takes effect

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on **5th February 2024**, unless an appeal is made against it beforehand.

Date issued: 12th December 2023



Signed:

Authorised Officer
Hinckley & Bosworth Borough Council
Hinckley Hub
Rugby Road
Hinckley
Leicestershire
LE10 0FR

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ANNEX

YOUR RIGHT OF APPEAL

Hinckley & Bosworth Borough Council has issued an enforcement notice relating to Land at **4 Shilton Road, Barwell, Leicester, Leicestershire, LE9 8HA**.and you are served with a copy of that notice as you have an interest in the Land.

Copies of the notice have been served on the parties listed at the end of this Annex.

You can appeal against this notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before the date specified in paragraph 7 of the notice which is the **5th February 2024**.

A copy of the Planning Inspectorate Enforcement appeals: procedural guide can be found using the following link:

<https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this enforcement notice, it will take effect on the date specified in paragraph 7 of the notice and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the period specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

PERSONS SERVED WITH THE ENFORCEMENT NOTICE

Town and Country Planning (Enforcement Notices & Appeals) (England) Regulations 2002 Part 2, 5(c)

The following people have been served with a copy of this enforcement notice:

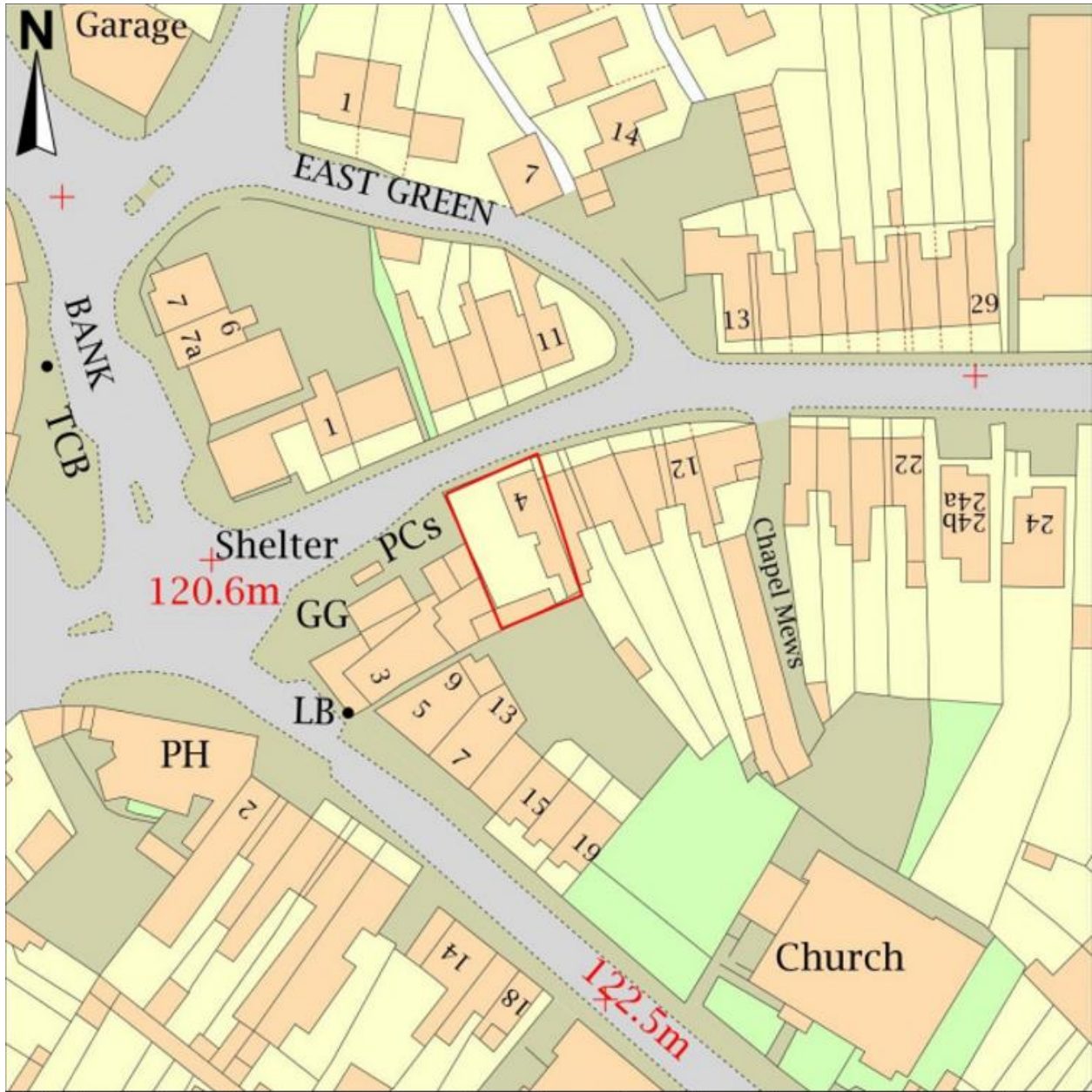
The Owner, Occupier, and any other person/s with an interest in the land, 4 Shilton Road, Barwell, Leicester, Leicestershire, LE9 8HA,

John Shaw, 4 Shilton Road, Barwell, Leicester, Leicestershire, LE9 8HA.

Nora Shaw, 4 Shilton Road, Barwell, Leicester, Leicestershire, LE9 8HA.

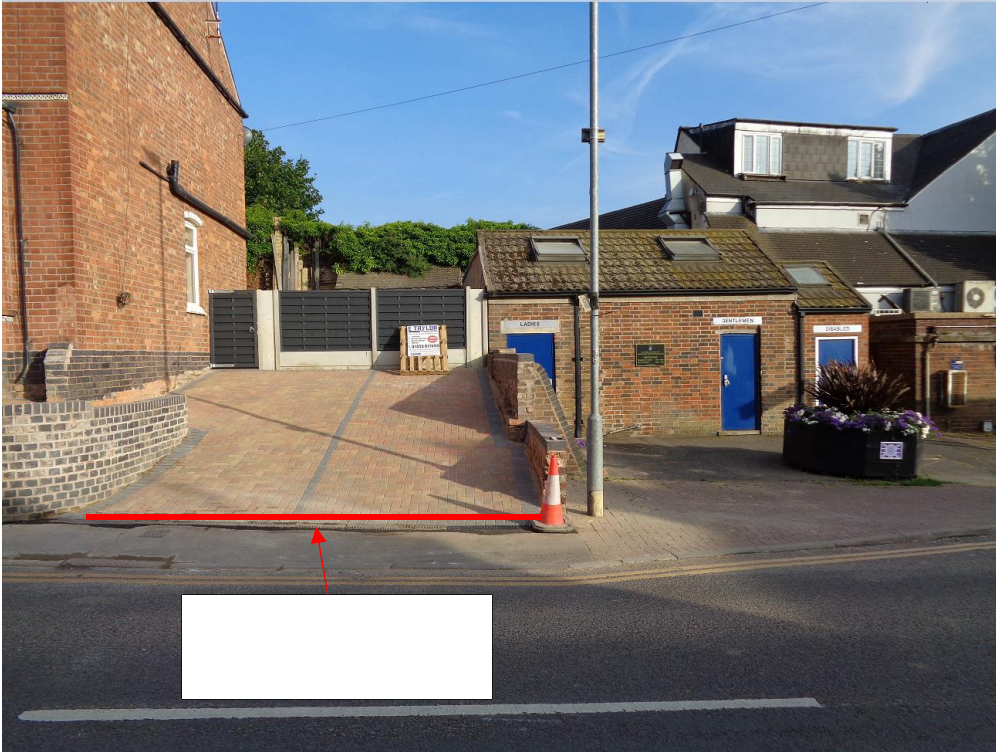
THE PLAN

4 Shilton Road, Barwell, Leicester, Leicestershire, LE9 8HA



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Appendix 1



Appendix 2

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990



Refusal of Planning Permission

Name and Address of Applicant

Mr John Shaw
4 Shilton Road
Barwell
Leicester
Leicestershire
LE9 8HA

Name and Address of Agent (if any)

Mr Nigel Crawford
SMARTePLANS
83 to 86 Hatton Garden
5th Floor, Suite 23
London
EC1N 8EL



Part I - Particulars of Application

Date of Application

7 June 2019

Application No.

19/00840/HOU

Particulars and location of development:

Creation of vehicular access and associated works

4 Shilton Road Barwell Leicester Leicestershire LE9 8HA

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 proposal, if permitted would result in the creation of an unacceptable access on to a C class road which lacks appropriate visibility for the speed of traffic. Furthermore, if permitted it could result in traffic reversing on to or off a C class road, to the detriment of highway safety for other road users including pedestrians which would be contrary to Policy DM17 of the Site Allocation and Development Management Policies DPD.
2. Due to the scale of the proposed vehicular access, this would result in a significant reduction to the size and quality of useable private amenity space serving the dwelling which would be harmful to existing and future residential amenity. Therefore the proposed vehicular access is considered to be contrary to Policy DM10 of the Site Allocation and Development Management Policies DPD.

Nicola Smith

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

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Date :21 August 2019

Planning Manager
Development Management

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/planning-inspectorate>). 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)