HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Hinckley & Bosworth Borough Council

APPEAL BY D PRICE AGAINST THE REFUSAL OF PLANNING PERMISSION FOR AN AGRICULTURAL BUILDING ON LAND EAST OF HEATH ROAD, BAGWORTH, LEICESTERSHIRE

HBBC REFERENCE 11/00635/FUL

THE PLANNING INSPECTORATE REFERENCE APP/K2420/A/11/2166992/NWF

STATEMENT BY RICHARD WRIGHT BA (HONS)

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1.0 Introduction

1.1 This statement is a written submission in support of the decision by Hinckley and Bosworth Borough Council to refuse full planning permission for a new agricultural building on land east of Heath Road, Bagworth, Leicestershire (LPA Planning Application reference number 11/00635/FUL). This statement should be read in conjunction with the information previously supplied as attachments to the Appeal Questionnaire.

1.2 The proposal is for the erection of a new agricultural building to be located close to the northern boundary of the application site and close to the existing field access off Heath Road. The proposed building measures 18 metres x 12 metres (216 square metres of floor space) with a ridge height of 5.8 metres and eaves height of 3.8 metres. The proposals include the setting back of the gated access 10 metres from the highway to the west. The building is to be constructed of steel frames with external walls of low level concrete block-work with Yorkshire boarding over, green steel sheet roof panels, a feed trough to the west elevation and double steel access doors to the south elevation.

2.0 The Appeal Site

2.1 The site is situated within the countryside and within the National Forest as defined on the Proposals Map of the Adopted Hinckley and Bosworth Local Plan (2001).

2.2 The site is located on the eastern side of Heath Road south of the village of Bagworth. The roughly rectangular site slopes from north to south and extends to approximately 4.04 hectares comprising of two fields divided by a post and wire fence and being laid to grass. There is an existing lean-to type structure constructed of timber frame and grey profiled cladding sheets located in the north-west corner of the site. The structure measures approximately 11 metres in length, 6 metres in depth and 3 metres in height and has open sides to the east and south elevations. The site is bound to the north and east by Bagworth Heath Woods and by mature native hedgerow along the road frontage to the west. To the south lies a small lake and wetland habitat.

2.3 Vehicular access is via two existing field gates off Heath Road located along the western boundary of the site. At the time that the application was determined, the northernmost field access was approximately 4 metres in width with a pair of metal access gates set just off the back of the highway footpath with overgrown mature hedgerows fronting the highway boundary either side and close boarded timber fencing of approximately 1.5

metres in height along either side of the access within the site leading to a second pair of timber gates.

2.4 Since determination of the application the northernmost access has been subject to alterations involving the setting back of the access gates, removal of a length of hedgerow, widening of the access, rough hard-surfacing and the erection of 1.5 metres high timber hit and miss fencing in order to try to improve access and egress to and from the site and to improve highway visibility. These works do not benefit from any planning permission, however, no enforcement action has been taken pending the outcome of this appeal.

3.0 Planning History

3.1 The application site has been subject to a number of earlier applications by the Appellant for the erection of buildings on the site:

3.2 An application (reference 10/00308/GDO) was made under the prior notification procedure of the Town and Country Planning (General Permitted Development) Order 1995, Schedule 2, Part 6: 'Agricultural Buildings and Operations' for the erection of a new building to be used for the storage of hay and straw to provide supplementary food for the applicant's horses being kept on the land. The Appellant was notified by letter issued 20 May 2010 that the proposed building was not permitted development under the provisions of the Order and that planning permission would be required as it did not relate to an agricultural operation.

3.3 An application (reference 10/00448/GDO) was made under the prior notification procedure of the Town and Country Planning (General Permitted Development) Order 1995, Schedule 2, Part 6: 'Agricultural Buildings and Operations' for the erection of a new barn to be used for the storage of hay off the field to be used for winter feed for livestock to be kept in the fields. However, no substantive evidence or details regarding the Appellant's agricultural operations or livestock was submitted to support the application prior to the decision letter being issued. The Appellant was notified by letter issued 23 July 2010 that the proposed building was not permitted development under the provisions of the Order and that planning permission would be required as it did not relate to an agricultural operation and was not reasonably necessary for the purposes of agriculture.

3.4 A full planning application (reference 10/00650/FUL) was made for the erection of an agricultural building. The supporting information advised that the building would be used to provide secure cover for livestock and the storage of hay, food and machinery to

allow a 'new' enterprise to develop. The same document then refers to the site already being a working farm and that the building would be used for the storage of hay for feeding 32 store cattle which are grazing on other land rented by the Appellant and for storage of farm implements including a small tractor, machinery and tools. Once again, no substantive evidence or details regarding the Appellant's agricultural operations/livestock was submitted to support the application. The application was withdrawn on 15 September 2010 before being determined.

3.5 A full planning application (reference 10/00770/FUL) was made for the erection of an agricultural building to be used for the winter shelter of 30 'beasts' and storage of hay for feed for those 'beasts'. The agent confirmed in a letter supporting the application that the 'beasts' in question were being kept on other rented land elsewhere and that the proposed building was required for them. However, when additional information regarding the livestock was requested as part of the application process, a letter from the agent was received advising that the 'beasts' had been sold. No substantive evidence of any agricultural operation being carried out by the Appellant was submitted to support the application. The application was refused by Planning Committee for the reason that the applicant had failed to demonstrate that adequate agricultural justification existed for the proposed new building and a decision notice was issued on 14 January 2011.

3.6 A full planning application (reference 11/00166/FUL) was made for the erection of an agricultural building to provide shelter for livestock and storage of hay. Supporting information submitted with the application refers to the enterprise operated by the Appellant being in connection with horse breeding with sales of colts and replaced mares for meat for export to France. Additional supporting information submitted later then refers to the building to be used to shelter 'about 40 beef stock cattle between 3 and 12 months of age and winter fodder/bedding storage'. Once again, the Appellant failed to demonstrate adequate agricultural justification in respect of the proposed building. The application was withdrawn on 19 May 2011 before being determined.

4 National Planning Guidance

4.1 Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' (as amended by Annex A of Planning Policy Statement 4) in paragraph 1 requires all development in rural areas to be well designed, in keeping and scale with its location and sensitive to the character of the countryside. Paragraph 15 states that planning policies should provide a positive framework for facilitating sustainable development that supports traditional land based activities that require a countryside location but continue

to ensure that the quality and character of the wider countryside is protected, and where possible enhanced.

5.0 East Midlands Regional Plan 2009

5.1 There are no policies that are particularly relevant to this application in the East Midlands Regional Plan (2009).

6.0 Development Plan Policies

6.1 Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (adopted December 2009).

6.1.1 Policy 21: 'National Forest' requires development to respect the character and appearance of its setting within the forest and the wider countryside.

6.2 Hinckley and Bosworth Local Plan (adopted February 2001) policies saved by way of a Direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004.

6.2.1 Policy BE1: 'Design and Siting of Development' seeks to secure attractive development and to safeguard and enhance the existing environment. Planning permission will be granted where the development complements or enhances the character of the surrounding area with regard to scale, layout, design and materials; has regard to the safety and security of property; incorporates landscaping if necessary; ensures that there is adequate highway visibility for road users and adequate provision of parking and manoeuvring facilities.

6.2.2 Policy NE5: 'Development in the Countryside' states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is important to the local economy and cannot be provided within or adjacent to an existing settlement and where it does not have an adverse effect on the appearance or character of the landscape; is in keeping with the scale and character of existing buildings and the general surroundings; will not generate traffic likely to exceed the capacity of the highway network or impair road safety and where necessary is effectively screened by landscaping.

6.2.3 Policy NE12: 'Landscaping Schemes' states that development proposals should take into account the existing landscaping features of the site and make provision for further landscaping where appropriate.

6.2.4 Policy NE21 states that permission will only be granted for built development in the National Forest where development is of a high quality. The design and materials of construction of buildings and the layout and planting of open space between them should reflect the local architecture and the setting of the proposal in the forest. This policy has been superseded by policy 21 of the adopted Core Strategy.

6.2.5 Policy T5: 'Highway Design and Vehicle Parking Standards' refers to the application of appropriate standards for highway design and parking provision unless otherwise justified.

6.3 Other Relevant Documents

6.3.1 Supplementary Planning Guidance on the 'Design of Farm Buildings' advises that the position of a new farm building is usually dependant on its function and the space available. There are other factors that should be taken into account, such as the visual prominence of the building in the wider landscape. The function of the building will influence its size, scale, type and design. The long term agricultural requirements of the building should also be considered.

6.3.2 Leicestershire County Council document: 6C's Design Guide, formerly known as 'Highways, transportation and development' provides further guidance to developers in respect of all highway issues and on the policies and objectives of the Highway Authority.

6.4 Extracts of the Development Plan policies and other documents referred to for the purposes of the application were provided with the appeal questionnaire.

7.0 The Case for the Local Planning Authority

7.1 On the basis of the reasons set out below, the Council contends that planning permission should be refused.

7.2 Reasons for Refusal:

7.2.1 In the opinion of the Local Planning Authority the proposed development will intensify the use of an existing access that has insufficient visibility in order to leave the site in a safe manner. As such the proposal would result in a detrimental harm to highway safety. It is

therefore considered contrary to policies BE1 and NE5 of the adopted Hinckley and Bosworth Local Plan.

7.2.2 In the opinion of the Local Planning Authority, the applicant has failed to demonstrate that adequate agricultural justification exists for the proposed building and as a result the proposed development would result in an unjustified intrusion into the open and undeveloped countryside contrary to Planning Policy Statement 7 and policy NE5 of the adopted Hinckley and Bosworth Local Plan.

Reason 1

7.3 Access to the site is from the C5105 Heath Road which in the vicinity of the appeal site is de-restricted and unlit. Leicestershire County Council speed surveys show that 85th percentile speeds along Heath Road are in the region of 53-56mph. In the last 5 years there have been 6 recorded Personal Injury Accidents in the vicinity of the site, of these 2 were classed as 'Serious'. The visibility requirements are set out in the Councils 6Cs Design Guide formerly known as 'Highways, transportation and development'. Table DG4 shows that visibility splays of 2.4m x 215 metres are required based on speeds of 54mph or above.

7.4 Whilst recent alterations have been carried out to the access in terms of its geometry and gate set-back, visibility remains well below the required standard. Planning Policy Guidance Note 13 (PPG 13) Annex B makes it clear that "whatever the type of access, safety considerations will be paramount….. good visibility will be of particular importance".

7.5 The works carried out by the appellant represent an improvement over the previous arrangement and therefore they are welcomed. Notwithstanding this however, it has always been the Highway Authority's position that the access was and still remains unsuited to cater for any additional development unless visibility can be provided to the standards set out above. It is clear that this has not been achieved and therefore it is considered that the appeal proposal would be contrary to the highway safety policies set out in the 6Cs Design Guide (formerly Highways, transportation and development').

Reason 2

7.6 The Agricultural Appraisal carried out by Reading Agricultural Consultants in respect of the application in October 2011 was based on the assertion that the land is used for the rearing of beef store cattle and the breeding and rearing of cob horses comprising between 20 – 35 cattle at any particular time and about 60 mares covered by resident stallions each year. On that basis, the report concluded that agricultural justification

existed for the building. However, notwithstanding the conclusions of that report and the details submitted within the application that is the subject of this appeal in respect of the proposed agricultural operations to be carried out by the Appellant, together with the recommendation of the Planning Case Officer to Planning Committee, given the number and nature of the previous applications submitted by the Appellant and the significant lack of substantive evidence of any agricultural operation being carried out by the Appellant, together with the inconsistencies contained in each application in respect of what the agricultural operations being carried out by the Appellant are and what the use of the proposed building is ultimately intended to be, the circumstances of this case are such that it is not unreasonable for the Planning Committee to have raised significant reasonable doubt and concerns in respect of the strength of the agricultural justification for the proposed development being robust enough to overcome the strong countryside protection policies in Planning Policy Statement 7 and adopted Local Plan policy NE5 aimed at preventing unjustified intrusions of built form into the open countryside, particularly given the scale of the proposed building.

7.7 Accordingly, given the considerable inconsistencies contained within documents submitted to support a number of previous applications for the building and the site and in the absence of satisfactory or substantive evidence as to the true nature of the Appellants agricultural operations and intentions for the use of the building, the local planning authority contend that it is not unreasonable for the Planning Committee to refuse the application on the grounds of a lack of agricultural justification in this case.

8.0 Comments on Appellant's Grounds of Appeal

8.1 Whilst the nature of the application is such that it would normally be determined under the Council's Scheme of Delegation, local elected members can request that any application is presented to the Planning Committee for determination if they consider that there are material planning reasons for doing so as was the case in respect of the application that is the subject of this appeal.

8.2 Notwithstanding the advice contained in the Agricultural Appraisal report which was based on details submitted by the Appellant indicating a further variation in respect of his intended agricultural operations, the recommendation of the Planning Case Officer's report to Planning Committee and Late Item Agenda, in the opinion of the Planning Committee there were reasonable doubts and concerns as to the details submitted to demonstrate an agricultural justification for the building and in respect of access to the site and highway safety and the application was refused on those grounds. The members of the Planning Committee are not bound by the recommendations of the

Planning Case Officers report and can legitimately take a different view in their assessment of the relevant material planning merits of each case and the determination of any application.

8.3 The Appellant's grounds of appeal refer to the lack of objection to the application from the Highway Authority, however, this was subject to a number of recommended conditions requiring specific access improvements to be carried out to mitigate the impact of the development on highway safety. Whilst unauthorised improvement works to the access have been undertaken since the application was refused, these do not meet the requirements of the Highway Authority to mitigate additional development on the site. Given the sub standard configuration of the field access at the time that the application was determined, in respect of its width, geometry, surfacing and extremely poor visibility in both directions it is not unreasonable for the local planning authority to refuse the application on the grounds of impact on highway safety as the development is contrary to policies BE1(g), NE5(iv) and T5 of the adopted Hinckley and Bosworth Local Plan.

9.0 Conclusion

9.1 Whilst the erection of an agricultural building on the site may be generally acceptable in principle, in this case and on the information submitted, it is considered that the Appellant has failed to demonstrate that adequate agricultural justification exists for the proposed building for the stated purposes that would outweigh national planning guidance and local plan policies that seek to protect the character and appearance of the countryside for its own sake and from unjustified intrusion of built form into the open and undeveloped countryside. As a result, in the opinion of the local planning authority, the proposed development is considered to be contrary to Planning Policy Statement 7 and policy NE5 of the adopted Local Plan. In addition, in the opinion of the local planning authority the access to the site is substandard in terms of highway safety for providing safe access and egress to and from the site to serve the proposed development contrary to policies BE1(g), NE5(iv) and T5 of the adopted Hinckley and Bosworth Local Plan.

9.2 With regard to the information contained in this statement and that submitted with the Appeal Questionnaire, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed. However if the Inspector is minded to allow the appeal, the local planning authority requests that the conditions in Appendix A attached to this document be imposed.