STATEMENT IN SUPPORT OF APPEAL AGAINST THE REFUSAL OF HINCKLEY AND BOSWORTH BOROUGH COUNCIL TO GRANT PLANNING PERMISSION FOR APPLICATION REF 11/00399/FUL AT THE BUNGALOW, POPLAR TERRACE, CONGERSTONE, NUNEATON, CV13 6NE

APPEAL REF: APP/K2420/A/12/0038670/NWF

1. DELEGATED OFFICERS REPORT

1.1 INTRODUCTION

Quote **-** "This is a resubmission of an identical application submitted in 2010".

Comment **–** The application is not identical, but is similar.

Quote **–** "The application site lies outside the settlement boundary for Congerstone".

Comment **–** The settlement boundary as defined in the outdated Local Plan (see Plan No. C/256/AS1), bears no particular relationship to the natural settlement (see Plan No. C/256/AS2). It is more concerned with minimising any opportunity to provide development sites within the artificial black outline prescribed by planning officers, to the extent that a complete farmstead with frontage to Main Street is excluded, as well as 8 dwellings on the north-eastern fringe, including the appeal site.

1.2 CONSULTATIONS

Comment **–** Only 2 Statutory Consultees objected – Highways and Parish Council. In both cases the only objection was with regard to the sustainability of the village, as opposed to the site. However, in the emerging L.D.F. Core Strategy Policy 12 Rural Villages, "Congerstone", it is proposed to "Allocate land for the development of a minimum of 10 new homes". Therefore H&BBC considers

Congerstone to be sustainable to a limited extent, otherwise it would not have promoted the proposal for additional development.

The text continues that the council will "Address the existing difficulties in the quality, quantity and accessibility of green space....." 'Green space' in this context addresses all open space in the village and not just that which is publicly accessible. Open green spaces within the settlement boundary as prescribed are an important character of rural villages and should not be swamped by new development, just because they are the only places that can be legitimately developed. Previously used land or existing residential curtilage, such as the site for this proposed dwelling, should take priority for development over naturally occurring open (and usually paddock grass-green) spaces.

Only one neighbour objected; the principal concern was the potential loss of a conifer hedge on the eastern boundary of the site (to that neighbour's garden). This was an oversight on the block plan submitted. The previous reference to post and rail fence was intended to be erased and replaced with "retain existing hedge" but this was not carried out. It is confirmed that the hedge will be preserved and protected, thereby overcoming that objection.

1.3 APPRAISAL – POLICY

Comment **-** Many of the policies cited in support of a recommendation to refuse permission are triggered by the premise that this site is in "Open Countryside". That was the position imposed by the old Local Plan and historic policies. The new LDF is required to be less prescriptive and provides an opportunity to revisit where the natural limits of the village occur. The Appellant contends that the cluster of 8 dwellings on the north-eastern margin of Congerstone has always been practically perceived as part of the village and is comfortably within the 30MPH signs and the village name sign on approach from Barton in the Beans. These dwellings are not a separate hamlet and have no business being excluded from being considered as part of the village. The occupants of these dwellings and the rest of the village see them as part of Congerstone. The site is surrounded on both sides and to the rear

by existing Congerstone dwellings and gardens, with others diagonally opposite.

In the absence of any guidance beyond the proposed allocation of 10 new homes for Congerstone, mentioned in the Core Strategy, and in view of the significant shortfall in the latest SHLAA, and taking into account the extended delays that have continued to beset the completion of production of the LDF, the Appellant contends that policy objection that is not up to date and aligned with 21st Century thinking and direction, cannot be justified as 'over-riding' in the way that it has been, in the Delegated Report Appraisal. Each development proposal should be examined on its own merits.

The current direction of National Government Policy to encourage economic growth and development, which has been clearly stated and is in the process of being prescribed by Regulation, additional guidance and new legislation, has an underlying thread of requiring the default position for any development site to be to grant permission, unless there are clear over-riding objections of sufficient weight to overturn that stance. The Appellant contends that sufficient clarity and weight to justify refusal do not exist in this instance.

1.4 APPRAISAL – SITING AND DESIGN

Comment - It is clear from the report in the first paragraph under this sub-heading that the planning officer also takes the view that the cluster of 8 dwellings within which this site lies, is part of the natural settlement of Congerstone. The site "contributes to the character of the settlement" "The sporadic character of rural villages"...is also recognised.

The siting and design are generally found to be acceptable and have not been cited as a reason for refusal.

1.5 APPRAISAL – HIGHWAY SAFETY & PARKING

Comment - The officer's report confirms the view expressed earlier, that the planning authority does not agree with the Highway Authority about Congerstone being unsustainable and

therefore "seeks to encourage appropriately-sited development....in order to improve the sustainability of the community and village".

Otherwise it is confirmed "that the parking provision and access proposed (are) acceptable".

1.6 APPRAISAL – IMPACT ON NEIGHBOURS

Comment **-** Two minor corrections are needed to the officer's report. The 1:200 Site Plan does not propose the removal of the conifer hedge on the eastern boundary, but does indicate the erection of a close-boarded fence. As confirmed above in section **1.2**, the hedge will be left in-situ and the fence will not be erected – that was the intention of the applicant, but it was not translated onto the Site Plan, in error. The second correction is that contrary to the statement in the second paragraph of this section of the report, the site is not in the Congerstone Conservation Area.

No significant objection is perceived to the scheme under this heading.

1.7 APPRAISAL - OTHER ISSUES

Comment **-** The only material issue identified under this heading concerns the Play and Open Space Contribution of £1,250.80p. The Applicant made it clear that this payment would be made when required in the Design & Access Statement, but according to the appraisal, Policy REC3 requires a formal planning obligation to be provided. In conjunction with the Planning Authority, suitable Heads of Terms for such an Obligation are being drawn up. In these circumstances, where the applicant/appellant has made a written commitment to pay, the technicalities of how that should be achieved should not be a critical determining factor in whether permission is granted or not.

1.8 CONCLUSION

Comment **–** The conclusion reached to recommend refusal rests upon one issue only. The planning authority, constrained by its

own severely-drawn artificial village confines, is therefore required to see this natural part of the village as "open countryside" and is thereby able to invoke negative policies, which in the context of open fields far away from any settlements, are reasonable and justifiable.

The imposition of an artificial line which cuts out various marginal, (and not so marginal – see Fox Covert Farm on Plan No. C/256/AS2), parts of the village in the Planning Authority's sole interest of facilitating resistance to new development, is wholly unsympathetic to reality and constricts what should be natural village growth.

It leads to extreme development pressure upon any remaining, often very attractive, open spaces within the "village confines", which in turn leads to an excessive massing of buildings and the lamentable loss of the naturally open environment, which historically was the hallmark of most rural settlements.

The Appellant contends that a more sustainable use of existing garden ground to an existing dwelling within the fringe of Congerstone for one of the 10 new homes identified as being needed to encourage the village's sustainability, is far more appropriate and less damaging than the alternative, which would be the removal (or partial removal) of an existing green open space within the "village confines".

This site is not in Greenbelt. It is not in a Green Wedge. It is not in an important area of separation. It is not even in Open Countryside in the real and practical sense of the words. It is as much part of the village as Fox Covert Farm is, and should be treated as such. It provides a sustainable use of previously developed residential land, which will protect and preserve the green spaces and open spaces that remain in the village. The design will make a positive enhancement to this part of the village and the siting respects all neighbouring properties. This application merits being granted planning permission and it is therefore recommended that this Appeal be allowed.