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APPEAL STATEMENT

Refusal of application ref: 24/00551/FUL

Pond Barn, Cold Comfort Farm, Rogues Lane,
Hinckley



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Mr C McManus

Pond Barn, Cold Comfort Farm,
Rogues Lane, Hinckley

Appeal Statement

Our REF: CHR/MCMAN/24/2005

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1.0 INTRODUCTION

1.1 This Appeal Statement has been prepared on behalf of, Mr C McManus ("the Appellant") under Section 78 of the Town and Country Planning Act 1990.

1.2 The Appeal is pursuant to the decision of Hinckley and Bosworth Borough Council ("the Local Planning Authority") to refuse a planning application for the change of use and conversion of existing redundant rural building to a single-family dwelling house, landscaping and associated works (Self-build) ("the Appeal Proposal" at Pond Barn, Cold Comfort Farm, Rogues Lane, Hinckley ("the Site"), application reference: 24/00551/FUL.

1.3 The Planning Application was refused under delegated powers by Planning Officers of the Borough Council on the 18th September 2024 for the following two reasons:

1. *The building that is the subject of this application is not redundant or disused and the proposal represents new and unjustified isolated residential development outside of any identified settlement boundary in the countryside. Due to the location of the development, the future occupants of the scheme are likely to be dependent on private motorised transport to meet their day-to-day needs, which results in environmental harm. Ultimately, the urbanising effects of the development fundamentally and detrimentally alter the character and appearance of the site, its immediate setting, and the surrounding area. These significant adverse effects are considered to be contrary to, and in conflict with, Policies DM4, DM10, DM15, and DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) as well as Paragraph 84, Sections 5, 12 and 15, and the overarching aims of the National Planning Policy Framework (December 2023). This harm is considered to significantly and demonstrably outweigh any potential benefits of the development.*
2. *The Applicant has failed to demonstrate that their proposal is exempt from their mandatory biodiversity net gain requirements. As a result, the application has failed to deliver the mandatory 10% biodiversity net gain, which is contrary to, and in conflict with the requirements of Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).*

- 1.4 A copy of the decision notice is included at Appendix A and the Officer's delegated report at Appendix B for the application, subject of the Appeal.
- 1.5 The Appeal Statement provides an examination of the relevant planning history for the site and surrounding area, describes the Appeal Site in context with the area, sets out the applicable Development Plan and the subsequent refusal of planning permission. Thereafter, it sets out the planning policy considerations and goes on to address the issues arising from those considerations in the case for the Appellants and the conclusions.
- 1.6 This Statement should be read in conjunction with the accompanying plans from the application and the Appendices of the Statement.
- 1.7 The Appellants consider that, due to the merits of the case, which will be expanded upon further within this Statement, the Appeal is suitable to be determined under the written representation's procedure in accordance with the Planning Inspectorate's '*Procedural Guide: Planning Appeals – England*' updated on 17 September 2024.

2.0 PLANNING HISTORY

2.1 The following applications have been determined on the Appeal Site:

- 24/00149/P3CQ / Change of use of agricultural steel framed barn into a single dwellinghouse (C3) (Revised Scheme of planning application 23/01012/P3CQ) / Prior Approval Refused 11.04.2024;
 - Reason for refusal - The development is not considered to consist of a change of use of a building and the land within its curtilage from an agricultural use, nor is it considered to be within an established agricultural unit. The proposed demolition works are also not considered to be reasonably necessary to carry out the building operations, as detailed within Paragraph Q.1(i) (i) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), to the extent reasonably necessary for the building to function as a dwellinghouse. Therefore, the proposal is contrary to, and in conflict with, Paragraphs Q.1(a) and Q.1(i) (ii) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is therefore not considered to benefit from Permitted Development Rights.
- 23/01012/P3CQ / Change of use of agricultural steel framed barn into a single dwellinghouse / Prior Approval Refused 13.12.2023;
 - Reason for refusal - The development is not considered to consist of a change of use of a building and the land within its curtilage from an agricultural use, nor is it considered to be within an established agricultural unit. Therefore, the development is not considered to benefit from Permitted Development Rights and is contrary to Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- 18/00353/FUL / Change of use to a dog day care centre (retrospective) / Permitted subject to conditions 14.09.2018;
- 10/00318/GDO / Erection of agricultural building / Permitted 25.05.2010;
- 10/00055/GDO / Erection of agricultural building / Permitted 23.02.2010
 - This planning permission has since been rescinded via a unilateral undertaking that was submitted by the Applicant with the planning application, 10/00318/GDO.

3.0 DESCRIPTION OF THE APPEAL SITE AND SURROUNDINGS

3.1 The Appeal Site is located in open countryside to the north of the town of Hinckley and south east of the village of Stoke Golding. The Site is accessible via a private access road from Rogues Lane to north.

3.2 The Appeal Site is located to the north of the Cold Comfort Farm which is within the ownership of the appellant. Beyond Cold Comfort Farm are several residential properties (The Barn, The Cow Shed, Bullrush Cottage, Willow Cottage, Lilly Cottage) and Lante Fields Farm that are independent to Cold Comfort Farm.



Figure 1 – Site Location Plan

3.3 The Site is currently occupied by a barn permitted under application ref: 10/00318/GDO for the purposes of agricultural storage associated principally with hay production for an agricultural land holding with a total area of 5.8 ha.

3.4 Application ref: 18/00353/FUL granted retrospective planning permission for the Change of use of the barn to a dog day care centre. The proposal included internal partitioning, external fenced exercise area and area of hardcore for parking. Figures 2 and 3 below illustrate the existing building and fenced outdoor exercise area.



Figure 2 – Existing building



Figure 3 – Enclosed outdoor dog exercise area

- 3.5 The change of use to a dog day care centre was for part of the building with the remainder retained for agricultural purposes. Figure 4 below illustrates the proposed floor plan approved under application ref: 18/00353/FUL which demonstrates the area for the dog day care which amounts to approximately 95m² and 34% of the total internal floor area.

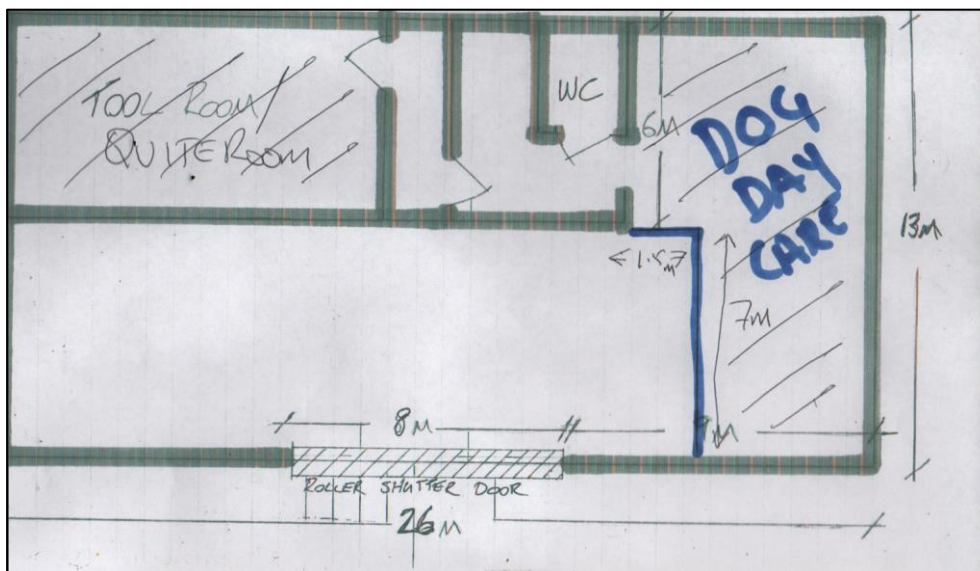


Figure 4 – Application ref: 18/00353/FUL approved floor plan

- 3.6 Figure 5 below illustrates the internal partition of the building and the area for dog day care.



Figure 5 – Internal dog day care area

- 3.7 An area of hardcore was also permitted to provide parking for staff and visitors to the site, see Figure 6 below. The parking plan was referenced in Condition 1 of the decision notice for application ref: 18/00353/FUL which is included at Appendix C.

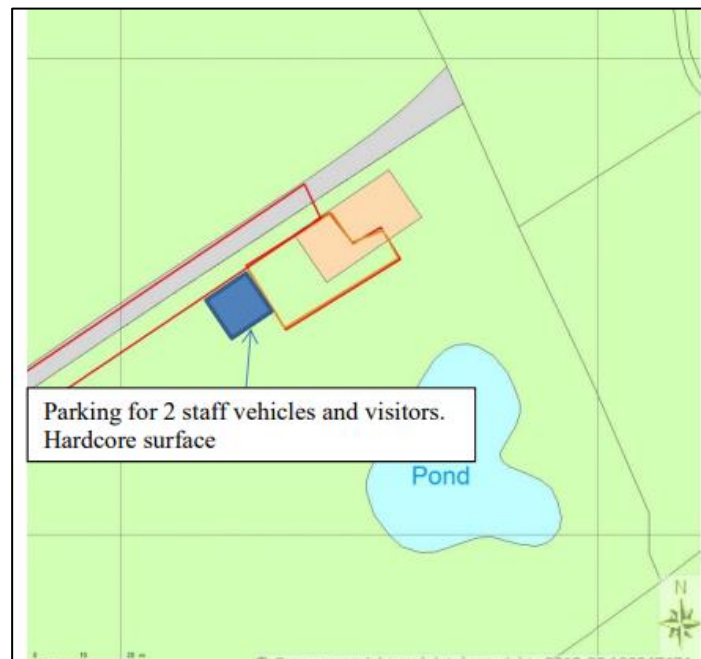


Figure 6 – Parking plan approved application ref: 18/00353/FUL for change of use to dog day care

- 3.8 The formal lease for the dog day care tenant ended in June 2024 and the Appeal Site is no longer required for agricultural use. This was acknowledged in the officer's assessment of applications ref: 24/00149/P3CQ which states; it is not considered that the existing building, the application site, nor Cold Comfort Farm, are used solely for an agricultural use, nor utilised as part of an established agricultural unit. A copy of the delegated report is included at Appendix D for reference.
- 3.9 The Site is located in Flood Zone 1, is not located within a conservation area or located within close proximity to any listed buildings.

4.0 THE PROPOSED DEVELOPMENT

- 4.1 The Proposal, the subject of this Appeal, was validated by the Council as a Full Planning Application on 3rd June 2024. The application sought planning permission for the change of use and conversion of existing redundant rural building to a single-family dwelling house, landscaping and associated works. The proposal is for a self-build development.
- 4.2 The residential curtilage of the site was reduced during the assessment of the application and determined on the smaller red line boundary, which amounts to 2616.00m² / 0.26 hectares, as shown on Figure 7 below.

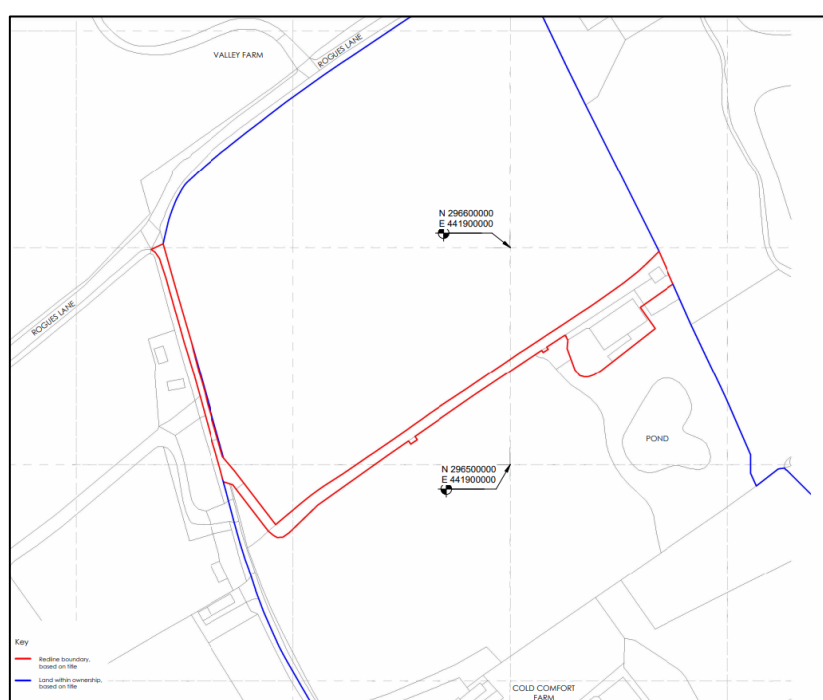


Figure 7 – Site location plan (HSSP Ref: 8895 - 03 – 0001 rev PL3)

- 4.3 The proposals utilise the existing access and area of hardstanding to the west of the existing building for parking. Private amenity space is proposed to be enclosed by fencing. Figure 8 illustrates the proposed site layout.

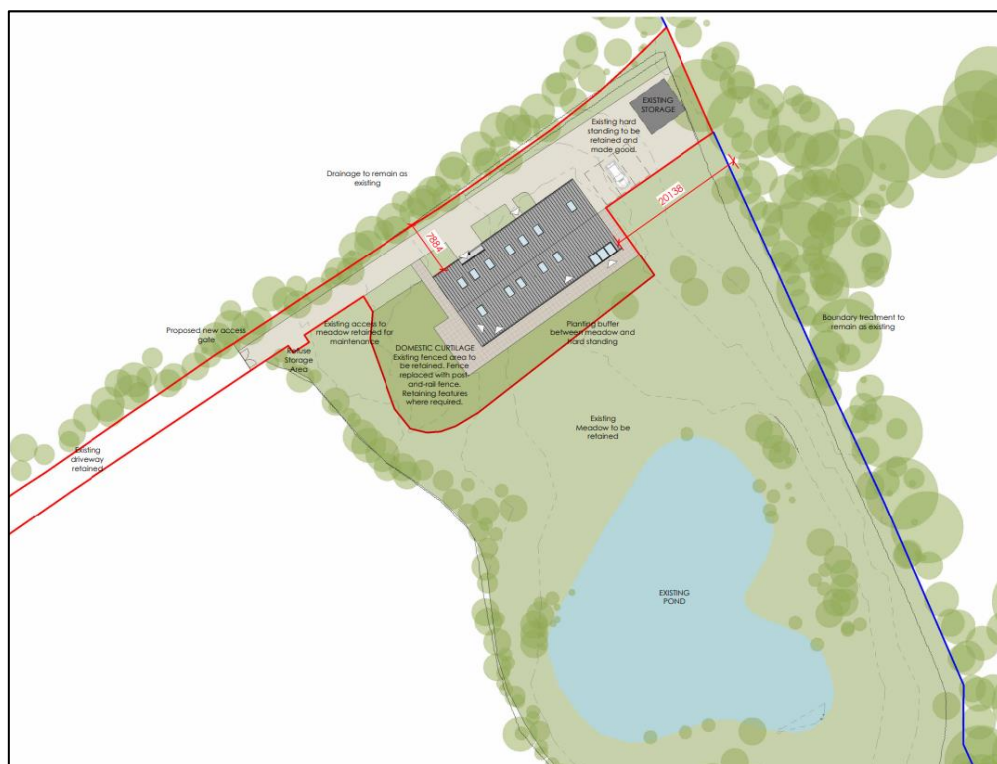


Figure 8 – Site layout plan (HSSP Ref: 8895 - 03 - 0002 rev PL3)

- 4.4 The proposals retain the existing massing with minor amendments to facilitate conversion to a dwelling. In terms of materials a palette of grey timber cladding and standing seam zinc is proposed, retaining the barns character as a metal agricultural building. Aluminium windows and doors are proposed. The conversion creates a four-bedroom dwelling with living accommodation across the ground and first floor.

5.0 PLANNING POLICY AND ASSESSMENT OF MATERIAL CONSIDERATIONS

- 5.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission should be determined in accordance with the Development Plan unless other material considerations indicate otherwise. The Development Plan relevant to the assessment of this Appeal comprises the Core Strategy (2009) and Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016). There is no adopted Neighbourhood Plan relevant to the Appeal Site.

Core Strategy

- 5.2 The Core Strategy was adopted 15 December 2009. The adopted Hinckley and Bosworth Core Strategy provides the spatial vision for the Borough. No policies from the Core Strategy were considered relevant in the officers assessment of the application.

Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016)

- 5.3 The Site Allocations and Development Management Policies Development Plan Document (SADMP) was formally adopted 12 July 2016.
- 5.4 The Appeal Site is located outside any Settlement Development limits and is therefore considered to fall within open countryside as defined in the Local Plan.
- 5.5 The following SADMP policies are relevant to the Appeal, the policies referenced in the reasons for refusal are highlighted and expanded upon below;
- Policy DM1: Presumption in Favour of Sustainable Development
 - **Policy DM4: Safeguarding the Countryside and Settlement Separation**
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - **Policy DM10: Development and Design**
 - **Policy DM15: Redundant Rural Buildings**
 - **Policy DM17: Highways and Transportation**
 - Policy DM18: Vehicle Parking Standards

5.6 Policy DM4: Safeguarding the Countryside and Settlement Separation

To protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development.

Development in the countryside will be considered sustainable where:

- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or*
- b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or diversification of rural businesses; or*
- c) It significantly contributes to economic growth, job creation and/or*
- d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or*
- e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 -Enabling Rural Worker Accommodation. and:*
 - i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and*
 - ii) It does not undermine the physical and perceived separation and open character between settlements; and*
 - iii) It does not create or exacerbate ribbon development; with Core Strategy Policies 6 and 9; and*
 - iv) If within a Green Wedge, it protects its role and function in line*
 - v) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21*

5.7 Policy DM10: Development and Design

Developments will be permitted providing that the following requirements are met:

- a) It would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality (including odour), noise, vibration and visual intrusion; be adversely affected by activities in the vicinity of the site; architectural features;*
- b) The amenity of occupiers of the proposed development would not*

- c) It complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features;*
- d) The use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the local area generally; add to the quality of the design and siting; line with Core Strategy Policy 24; emission vehicles are included where feasible;*
- e) It incorporates a high standard of landscaping where this would add to the quality of the design and siting;*
- f) It maximises opportunities for the conservation of energy and resources through design, layout, orientation and construction in line with Core Strategy Policy 24;*
- g) Where parking is to be provided charging points for electric or low emission vehicles are included where feasible;*
- h) An appropriate Sustainable Drainage Scheme is submitted to and approved by the relevant Authority. Schemes should incorporate wildlife areas, ponds, swales and permeable paving where appropriate;*
- i) It maximises natural surveillance and incorporates the principles of Secured by Design and has considered the incorporation of fire safety measures.*

In exceptional circumstances where outstanding, innovative design is demonstrated (particularly where high levels of sustainability are an integral feature), applications will be considered favourably, even where this may result in some limited conflict with the above criteria.

5.8 Policy DM15: Redundant Rural Buildings

Proposed development outside the settlement boundary for the reuse and/or adaptation of redundant or disused rural buildings will be supported where:

- a) The applicant demonstrates the building is no longer viable in its current use; and*
- b) The applicant has adequately demonstrated the building is in a structurally sound condition and is capable of conversion without significant rebuild or alteration; and*
- c) Any proposed extension(s) or alterations are proportionate to the size, scale, mass and footprint of the original building and situated within the original curtilage; and*
- d) The proposed development accords with Policy DM10: Development and Design and relevant design guidance, DM11: Protecting and Enhancing the Historic Environment and DM12: Heritage Assets.*

All development proposals for the re-use of redundant rural buildings should result in the enhancement of the immediate setting.

5.9 Policy DM17: Highways and Transportation

Development proposals will be supported where they:

- a) Seek to make the best use of existing public transport services and, where appropriate, provide opportunities for improving and sustaining the viability of those services;*
- b) Seek to ensure that there is convenient and safe access for walking and cycling to services and facilities;*
- c) Demonstrate that there is not a significant adverse impact upon highway safety; and in the case of development that generates significant movement;*
- d) That the development is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised;*
- e) Where it can be demonstrated that the residual cumulative impacts of development on the transport network are not severe.*

Where appropriate, improvements will be required to be undertaken to the highways and transportation network to limit any significant impacts arising from the development (taking into account cost effectiveness).

All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority.

Supplementary Planning Documents

- 5.10 The Good Design Guide Supplementary Planning Document (SPD) was adopted on the 18th March 2020 and is a material consideration in the assessment of the application subject of the appeal.

National Planning Policies and Guidance

5.11 **National Planning Policy Framework (NPPF) (December 2023)**

- 5.12 The revised National Planning Policy Framework last updated 20 December 2023 sets out the Government's planning policies for England and how these are expected to be applied is a material consideration in the assessment of the Appeal.

- 5.13 The NPPF paragraphs/sections outlined below are relevant to the development proposal subject of the appeal.
- 5.14 Paragraph 83 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
- 5.15 Paragraph 84 states planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- 5.16 Paragraph 131 advises that the Government attaches great importance to the design of the built environment, stipulating that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 5.17 In addition, the NPPF also advises local planning authorities to approach decision-taking in a positive way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area (Paragraph 38).

Planning Practice Guidance

- 5.18 Paragraph: 003 Reference ID: 74-003-20240214 states there are specific exemptions from biodiversity net gain for certain types of development. The exemptions are set out in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.
- 5.19 The biodiversity gain condition does not apply to the following types of development: Self-build and custom build development. Development which:
- consists of no more than 9 dwellings, and
 - is carried out on a site which has an area no larger than 0.5 hectares, and
 - consists exclusively of dwellings which are self-build or custom housebuilding as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015.

Self-build and Custom Housebuilding Act 2015

5.20 The legislation from the act relevant to the appeal is as follows:

Registers of persons seeking to acquire land to build a home

[F1(A1)In this Act “self-build and custom housebuilding” means the building or completion by—

(a)individuals,

(b)associations of individuals, or

*(c)persons working with or for individuals or associations of individuals,
of houses to be occupied as homes by those individuals.*

(A2)But it does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.]

6.0 THE CASE FOR THE APPELLANTS

6.1 The Application was refused under delegated powers by Planning Officers of the Borough Council on the 18th September 2024 for the following two reasons, see copy of the decision notice in full at Appendix A:

1. *The building that is the subject of this application is not redundant or disused and the proposal represents new and unjustified isolated residential development outside of any identified settlement boundary in the countryside. Due to the location of the development, the future occupants of the scheme are likely to be dependent on private motorised transport to meet their day-to-day needs, which results in environmental harm. Ultimately, the urbanising effects of the development fundamentally and detrimentally alter the character and appearance of the site, its immediate setting, and the surrounding area. These significant adverse effects are considered to be contrary to, and in conflict with, Policies DM4, DM10, DM15, and DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) as well as Paragraph 84, Sections 5, 12 and 15, and the overarching aims of the National Planning Policy Framework (December 2023). This harm is considered to significantly and demonstrably outweigh any potential benefits of the development.*
2. *The Applicant has failed to demonstrate that their proposal is exempt from their mandatory biodiversity net gain requirements. As a result, the application has failed to deliver the mandatory 10% biodiversity net gain, which is contrary to, and in conflict with the requirements of Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).*

6.2 This Appeal Statement seeks to address Hinckley and Bosworth Borough Council's reasons for refusal as detailed above taking each in turn.

Reason for Refusal 1

6.3 The first reason for refusal considers the development to be contrary to and in conflict with Policies DM4, DM10, DM15 and DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

Policy DM4

- 6.4 Taking each policy in turn, Policy DM4 states that that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where it meets one of the exceptions listed under criterion a) to e) and meets with policy objectives (i) to (v).
- 6.5 DM4 (b) provides policy support for proposals involving the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; and where it:
- i. does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - ii. does not undermine the physical and perceived separation and open character between settlements; and
 - iii. does not create or exacerbate ribbon development;
 - iv. if in a Green Wedge, protects its role and function (in line with Core Policies 6 and 9); and
 - v. if within the National Forest, it contributes to the delivery of the National Forest Strategy (Core Policy 21).
- 6.6 The application, subject of the appeal, proposed the change of use of an existing building located in the countryside. The building is of permanent and substantial construction and suitable for a conversion to residential, which the LPA do not dispute.
- 6.7 The building was previously used for agricultural storage and dog day care and is no longer needed for these purposes. The use of the building for dog day care required an outdoor exercise area for the dogs which was enclosed by fencing. The photographs below Figures 9 and 10, illustrates the appearance of the building and the outdoor exercise area.



Figure 9 - Outdoor dog exercise area



Figure 10 – Fencing for dog day care and existing building

- 6.8 It's evident from the photographs that the partial use of the building for dog day care and outdoor exercise area have an urbanising effect and impacted upon the character of the site and the fencing is typical of a domestic residential property.
- 6.9 The proposed external appearance and design of the conversion provides new door and window openings to provide natural light to the rooms. The external materials and finishes are purposefully chosen to respect the rural character of the existing building

with the appearance of the building comprising a palette of grey timber cladding and standing seam zinc is proposed, retaining the barns character as a metal agricultural building. Aluminium windows and doors are proposed. There are many steel-framed agricultural barns in the local area, clad in metal and/or timber. Examples of these can be found to the South at Cold Comfort Farm, or North at Valley Farm.

- 6.10 The gross internal floor area of the proposed dwelling is smaller than the existing footprint of the barn through the design. The height of the barn will remain as existing, as will the pitch of the roof. The proposals utilise the existing hardstanding and the amenity space will utilise the area previously used for the dog exercise area. The overall design creates a contemporary living space whilst still maintaining the rural character and impression of the building.
- 6.11 With reference to the criteria under (i) to (v): it is contended that the development would lead to an enhancement of the building and its wider setting through the sensitive design, architectural detailing and choice of materials to provide a contemporary high quality living space. The proposals would also prevent the building becoming redundant and falling into disrepair with there no longer being an agricultural storage need and the loss of the dog day care use. No extensions are proposed and the proposals would remove the harsh domestic solid fencing and outdoor exercise area replacing with post rail fencing and landscaping and would not therefore conflict with criterion (i) in seeking to ensure development does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.
- 6.12 The conversion relates to an existing building and its curtilage and does not cause any countryside encroachment. The site is located within an area of countryside categorised by small farms and rural buildings, the conversion of which to dwellings is not uncharacteristic. The proposal does not therefore cause any conflict with (ii) and (iii) by not undermining the physical and perceived separation and open character between the settlements of Hinckley to the south and Stoke Golding to the north; or exacerbating ribbon development. With regard to (iv) and (v), the site is not located within a Green Wedge or the National Forest.
- 6.13 Residential development of the site would not have an adverse impact upon the physical and perceived open character between the settlements of Hinckley to the south and

Stoke Golding to the north. The residential curtilage as amended during the determination of the application would not encroach further in to the open countryside as it will utilise the same area as approved for the outdoor exercising area and hardstanding for the former dog day care use.

- 6.14 For the reasons identified above, the principle of development accords policy DM4 of The Site Allocations and Development Management Policies Development Plan Document (SADMP).

DM10: Development and Design

- 6.15 Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 6.16 The building and associated curtilage subject of the appeal are an existing feature of the landscape. The harsh 6ft close boarded fence enclosing the site will be replaced by a post and rail fence which is more appropriate in this location and makes an enhancement to the appearance of the site. The proposed conversion of the existing building to a residential dwelling incorporates a sensitive design, architectural detailing and choice of materials to provide an enhancement to the existing building. The proposed conversion creates a contemporary and high-quality living space whilst maintaining the rural character. No extensions are proposed therefore there will be no greater impact upon the spatial awareness of the countryside. It should also be noted that the northern elevation is the most reserved in terms of the proposed design to respect this elevation being viewed from the highway.
- 6.17 The building is accessed via a private access road from Rogues Lane and has blended into the landscape as an existing feature. The site benefits from trees along the boundaries of the site which are to be retained, creating a natural feature and can be secured by condition.
- 6.18 The sensitive design of the proposal is considered appropriate for the rural setting, reflecting existing examples of metal and timber clad steel framed barns in the local area such as to the south at Cold Comfort Farm, or North at Valley Farm.

- 6.19 The reason for refusal makes reference to the urbanising effect of the proposals. As illustrated above the sites current use is partially as a dog day care business with an enclosed outdoor exercise area. This change of use, associated paraphernalia and associated vehicular movements has impacted upon the character of the site. The proposals provide the opportunity to improve the appearance of the site through a sensitive conversion of the building and a comprehensive landscaping scheme to provide enhancements to the wider setting of the countryside. This conversion would also secure the future of the redundant building and site preventing it from being left vacant and vulnerable to vandalism given that the dog day care business lease has ended and the building is not required for agricultural storage as the agricultural processes (hay making etc) have ceased.
- 6.20 Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 6.21 The nearest residential dwelling is Rogues Lane Nurseries, which is situated approximately 135 metres to the north of the application site. The conversion of the building to residential use is not considered to result in having a detrimental impact upon neighbouring residential amenity. The existing use for dog day care was conditioned to no more than 30 dogs on site at any one time, this use has a greater impact upon neighbouring amenity than the use of site for residential purposes.
- 6.22 Overall, it is therefore considered that the proposal is in accordance with Policy DM10 of the SADMP.

DM15: Redundant Rural Buildings

- 6.23 Policy DM15 states:

Proposed development outside the settlement boundary for the reuse and/or adaptation of redundant or disused rural buildings will be supported where:

- a) The applicant demonstrates the building is no longer viable in its current use; and*
- b) The applicant has adequately demonstrated the building is in a structurally sound condition and is capable of conversion without significant rebuild or alteration; and*

c) Any proposed extension(s) or alterations are proportionate to the size, scale, mass and footprint of the original building and situated within the original curtilage; and

d) The proposed development accords with Policy DM10: Development and Design and relevant design guidance, DM11: Protecting and Enhancing the Historic Environment and DM12: Heritage Assets.

All development proposals for the re-use of redundant rural buildings should result in the enhancement of the immediate setting.

- 6.24 The proposals are for the change of use and conversion of an existing rural building which is not required for agricultural storage purposes or for the dog day care use, which is not being renewed. The building will therefore become redundant. The agricultural building was granted permission in May 2010, Application ref: 10/00318/GDO, for the storage of agricultural equipment. Application ref: 18/00353/FUL granted retrospective permission for the change of use of part of the agricultural building to a dog day care centre in September 2018. Figure 4 above illustrates the approved floor plan and demonstrates the amount of the building occupied by the dog day care is a small portion of the building.
- 6.25 Figure 4 confirms that the permission for the change of use to a dog day care centre related only to a small part of the agricultural building, 95m² and 34% of the total internal floor area, which was internally partitioned with the remainder of the building retained for the storage of agricultural equipment associated with Cold Comfort Farm.
- 6.26 The building is no longer required for the purposes of the storage of agricultural equipment associated with Cold Comfort Farm. The Council in their assessment of the Prior Notice under Class Q, ref: 24/00149/P3CQ and ref 23/01012/P3CQ considered that the site did not benefit from Permitted Development rights as the assessments state that there was no agricultural use on site and the site was not part of an established agricultural unit. It is therefore accepted that the building is no longer required for Agricultural use.
- 6.27 The building is underutilised due to the ceasing of the agricultural operations and hay production which render the storage of agricultural equipment no longer needed. The long-term tenancy for the dog day care has ended and the rolling contract will terminate at the end of December 2024 with the dog day care business moving to alternative premises.

- 6.28 It should also be noted that Policy DM15 is part of the SADMP which was adopted in July 2016, the current National Planning Policy Framework (December 2023) at paragraph 84 c) support for development of homes in the countryside that would re-use redundant or disused buildings that enhance its immediate setting. There is no mention of the building being 'no longer viable' therefore part a) of policy DM15 can be afforded limited weight due to its inconsistency with the NPPF.
- 6.29 The existing building requires minimal modification to facilitate the conversion, no extensions are proposed and the entirety of the conversion is within the original footprint of the building. The eaves and ridge height will remain as existing. The sensitive design, materials and landscaping will enhance the immediate setting of the site and landscape. Furthermore, the removal of commercial dog-handling equipment, harsh fencing, hard landscaping and traffic associated with the use would provide betterment to the character of the site whilst securing the long-term future of the building preventing it from falling into disrepair.
- 6.30 It's considered that the principle of the development is compliant with 84 c) of the NPPF which supports the development of homes in the countryside which would re-use redundant or disused buildings and enhance its immediate setting and the application should be supported.
- 6.31 This Statement has demonstrated that the building is no longer required for the dog day care use or agricultural storage and the building is now redundant.
- 6.32 As detailed above, part a) of policy DM15 should be afforded limited weight due to its inconsistency with the NPPF in promoting the reuse of rural buildings for housing where enhancements can be secured to the betterment of the environment. The use would generate less vehicle trips and will have no impact upon highway safety.

DM17: Highways and Transportation

- 6.33 The first reason for refusal states that due to the location of the development, the future occupants of the scheme are likely to be dependent on private motorised transport to meet their day-to-day needs, which results in environmental harm.

- 6.34 This assessment doesn't take into consideration the existing lawful use of the building for dog day care for up to 30 dogs at anyone time. Given the countryside location of the building this use is reliant upon motorised transport and results in a greater number of vehicle movements which would amount to a far greater environmental harm than a single residential dwelling.
- 6.35 Furthermore, whilst it's recognised that the appeal site is a countryside location there are a number of residential dwellings within close proximity such as Rogues Lane Nurseries to the north and Cold Comfort Farm to the south.
- 6.36 Paragraph 83 of the NPPF recognises the opportunity for rural housing to support nearby facilities and services such as those within the village Stoke Golding to the north.
- 6.37 Paragraphs 109 of the NPPF states that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision making.
- 6.38 Furthermore, in accordance with paragraph 115 of the NPPF, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 6.39 The Highway Authority were consulted on the application and raised no objection to the application subject to conditions. The comments from the Highway Authority stated no amendments are proposed to the existing site access arrangements via Middleton Lane and Rogues Lane. The LHA are satisfied that the proposed development is unlikely to result in a material increase or a material change in the character of traffic in the vicinity of the site or create any additional highway safety issues. On this basis the LHA has no objection to the site access arrangements.
- 6.40 It's considered that the proposals would not be detrimental to highway safety and are in accordance with Policy DM17.

Second reason for refusal

6.41 The second reason for refusal cited by the Council is as follows:

The Applicant has failed to demonstrate that their proposal is exempt from their mandatory biodiversity net gain requirements. As a result, the application has failed to deliver the mandatory 10% biodiversity net gain, which is contrary to, and in conflict with the requirements of Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

6.42 As detailed above, Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance states there are specific exemptions from biodiversity net gain for certain types of development. The exemptions are set out in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

6.43 The biodiversity gain condition does not apply to the following types of development: Self-build and custom build development. Development which:

- consists of no more than 9 dwellings, and
- is carried out on a site which has an area no larger than 0.5 hectares, and;
- consists exclusively of dwellings which are self-build or custom housebuilding as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015.

6.44 The completed application form answered no to the following question in relation to Biodiversity Net Gain:

Do you believe that, if the development is granted permission, the general Biodiversity Gain Condition (as set out in Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended)) would apply?

6.45 In response to the question; *Please add all the exemptions or transitional arrangements that apply and provide a reason why the following response was provided:*

Exemption: Self-build and custom build development Reason for selecting exemption: The proposal would be implemented and lived in by the applicant, and is a bespoke conversion of an existing redundant rural building.

- 6.46 The information provided on the application form clearly states that planning permission is sought for a self-build bespoke property to be constructed by and lived in by the applicant. Self-build is included within the description of the development therefore should permission be granted the development would be limited to self-build, any departure from this description would be a breach of the planning permission.
- 6.47 The conditions for self-build and custom build development exempt from biodiversity net gain are as follows a response is provided to each;
- The biodiversity gain condition does not apply to the following types of development:
Self-build and custom build development. Development which:
- consists of no more than 9 dwellings, and
- 6.48 The proposed development comprises of one dwelling
- *is carried out on a site which has an area no larger than 0.5 hectares, and;*
- 6.49 The site area provided on the application form was 6709m² which equates to 0.6709 hectares however throughout the assessment of the application the application site boundary was reduced to 2616.00m² / 0.26 hectares which is below the threshold of 0.5 hectares.
- *consists exclusively of dwellings which are self-build or custom housebuilding as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015.*
- 6.50 The proposals comply with the provisions of section 1 (A1) of the Self-build and Custom Housebuilding Act 2015 by virtue of the application being made by an individual who has had sole influence in the design of the proposal which will be their main residency as detailed on the application form.
- 6.51 The information provided within the application form and accompanying Design and Access Statement is considered to demonstrate compliance with the relevant legislation.
- 6.52 It's considered that the proposed development is classified as a 'self-build' within the definition provided in the Self-Build and Custom Housebuilding Act 2015, which is a material consideration within this application.

6.53 As detailed at paragraph 6.2 of the officer's report, the County Council's Ecology Department confirmed that the site is exempt from mandatory biodiversity net gain due to being a self-build property. The County Ecologist commented measurable biodiversity net gain still needs to be provided as per the NPPF requirements.

6.54 The case officer commented the following in relation to BNG;

Notwithstanding the above, the Applicant has not demonstrated, nor provided any supporting information to indicate that their development can be considered as a self-build or custom-build development. Therefore, the application has also failed to demonstrate mandatory biodiversity net gain, which is contrary to, and in conflict with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

6.55 During the assessment of the application the agent confirmed to the Case Officer the applicant has been involved with the project and intends to convert the barn for the sole purpose of it being their home. The Case Officer suggested that the completion of the LPA's Custom Self Build Evidence Form could be a pre-commencement condition. It should be noted that in the assessment of the application no further clarification was sought by the Local Planning Authority in relation to self-build.

6.56 The condition suggested by the County ecologist to deliver a measurable net gain is acceptable to the appellant.

7.0 CONCLUSIONS

- 7.1 The Application subject of the Appeal seeks the change of use and conversion of existing redundant rural building to a single-family dwelling house, landscaping and associated works (Self-build) at Pond Barn, Cold Comfort Farm, Rogues Lane, Hinckley application reference: 24/00551/FUL.
- 7.2 Retrospective planning permission was granted for the change of use of the building to a dog day care centre subject to conditions which included allowing up to 30 dogs on site at anyone time. The change of use as granted for part of the building with the rest of the building remaining for agricultural storage. The lease for the dog day care has ended and will not be renewed and the business has moved to new premises. The agricultural operations have ceased and the building is no longer required for this purpose.
- 7.3 The existing building requires minimal modification to facilitate the conversion, no extensions are proposed and the entirety of the conversion is within the original footprint of the building. The eaves and ridge height will remain as existing. The sensitive design, materials and landscaping will enhance the immediate setting of the site and landscape. Furthermore, the removal of commercial dog-handling equipment, harsh fencing, hard landscaping and traffic associated with the use would provide betterment to the character of the site whilst securing the long-term future of the building preventing it from falling into disrepair. Accordingly, the proposals are considered compliant with Policies DM4, DM10, DM15, and DM17 of the adopted SADMP.
- 7.4 The proposals meet the criteria to be exempt from the mandatory BNG by virtue of being a single, on a site with an area below the threshold of 0.5 hectares and consists exclusively of a dwelling which is self-build or custom housebuilding as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015. The appellant is willing to accept the condition suggested by the County Council's Ecologist to provide a Biodiversity Enhancement and Management Plan in accordance with the NPPF.
- 7.5 It's considered that there are no other material considerations or policies in the NPPF that indicate that the Appeal Proposal should be refused and it is respectfully requested that this Appeal is allowed. The conditions below are put forward for consideration should the Inspector consider, the appeal should be allowed.

8.0 SUGGESTED CONDITIONS

8.1 Taking note of the consultee responses the following conditions are suggested. The condition suggested by the County ecologist is not considered reasonable

1. The development hereby permitted shall be started within three years from the date of this permission.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
 - Proposed Elevations 8895-03 - 0200 (submitted: 03.06.2024)
 - Proposed First Floor Plan 8895-03 - 0101 (submitted: 03.06.2024)
 - Proposed Ground Floor Plan 8895-03 - 0100 (submitted: 03.06.2024)
 - Proposed Roof Plan 8895-03 - 0102 (submitted: 03.06.2024)
 - Proposed Site Layout 8895 03 0002 PL3 (submitted: 13.08.2024)
 - Site Location Plan 8895 03 001 PL3 (submitted: 13.08.2024)
3. The residential unit in the development hereby permitted shall be constructed as a self / custom build dwelling within the definition of self-build and custom build housing in the 2015 Act:
 - i) The first occupation of the unit(s) in the development hereby permitted shall be by a person or persons who had a primary input into the design and layout of the unit(s)
 - ii) The unit(s) hereby permitted shall be occupied by that person and their family as their principal private residence for a period of at least three years from the date of first occupation of the unit(s)
 - iii) The Council shall be notified in writing of the person(s) who intend to take up first occupation of the unit(s) in the development hereby permitted at least two months prior to first occupation.
4. No development shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

5. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with HSSP drawing 8895-03-0002 (Proposed Site Layout). Thereafter the onsite parking and turning provision shall be kept available for such use in perpetuity
6. Prior to the commencement of the development, a Biodiversity Enhancement and Management Plan (BEMP) shall be submitted to and approved in writing by the local planning authority. The BEMP shall be accompanied by the Statutory Biodiversity Net Gain Metric and shall demonstrate measurable biodiversity net gain. The plan shall include:
 - A) description, evaluation and location of the ecological features and biodiversity enhancement measures to be created and managed
 - B) ecological trends and constraints on site that might influence management
 - C) aims and objectives of biodiversity enhancements and their management including for protected species
 - D) appropriate management options for achieving the aims and objectives of the project
 - E) prescriptions for management actions
 - F) preparation of a work schedule
 - G) details of the body or organisation responsible for implementation of the plan
 - H) on-going monitoring and remedial measuresThe development shall be implemented in accordance with the approved BEMP.
7. No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided to and approved in writing by the Local Planning Authority.
8. Prior to first occupation of the dwelling a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme, shall be submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

APPENDIX A

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

Refusal of Planning Permission

Name and Address of Applicant

Mr Christopher McManus
Cold Comfort Farm
Rogues Lane
Hinckley
Leicestershire
LE10 3DX

Name and Address of Agent (if any)

Mr Joseph White
HSSP Architects Limited
Pera Business Park
Nottingham Road
Melton Mowbray
LE13 0PB

Part I - Particulars of Application

Date of Application

3 June 2024

Application No.

24/00551/FUL

Particulars and location of development:

Change of use and conversion of existing redundant rural building to a single family dwelling house, landscaping and associated works (Self-build)

Pond Barn Cold Comfort Farm Rogues Lane Hinckley Leicestershire

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 building that is the subject of this application is not redundant or disused and the proposal represents new and unjustified isolated residential development outside of any identified settlement boundary in the countryside. Due to the location of the development, the future occupants of the scheme are likely to be dependent on private motorised transport to meet their day-to-day needs, which results in environmental harm. Ultimately, the urbanising effects of the development fundamentally and detrimentally alter the character and appearance of the site, its immediate setting, and the surrounding area. These significant adverse effects are considered to be contrary to, and in conflict with, Policies DM4, DM10, DM15, and DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) as well as Paragraph 84, Sections 5, 12 and 15, and the overarching aims of the National Planning Policy Framework (December 2023). This harm is considered to significantly and demonstrably outweigh any potential benefits of the development.
2. The Applicant has failed to demonstrate that their proposal is exempt from their mandatory biodiversity net gain requirements. As a result, the application has failed to deliver the mandatory 10% biodiversity net gain, which is contrary to, and in conflict with the requirements of Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

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

NOTES TO APPLICANT :-

1. The application has been determined in accordance with the following submitted details:

- Application Form (submitted: 03.06.2024)
- Design and Access (submitted: 03.06.2024)
- Ecology Survey (submitted: 03.06.2024)
- Ground Investigation Report (submitted: 03.06.2024)
- Policy Statement (submitted: 05.09.2024)
- Proposed Elevations 8895-03 - 0200 (submitted: 03.06.2024)
- Proposed First Floor Plan 8895-03 - 0101 (submitted: 03.06.2024)
- Proposed Ground Floor Plan 8895-03 - 0100 (submitted: 03.06.2024)
- Proposed Roof Plan 8895-03 - 0102 (submitted: 03.06.2024)
- Proposed Site Layout 8895 03 0002 PL3 (submitted: 13.08.2024)
- Site Location Plan 8895 03 001 PL3 (submitted: 13.08.2024)
- Submission Statement (submitted: 03.06.2024)

C. Brown.

Christopher Brown MRTPI
Head of Planning

Date: 18 September 2024

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. If you are aggrieved by the decision of the Local Planning Authority to refuse permission you may appeal to the Planning Inspectorate in accordance with Section 78 of the Town and Country Planning Act 1990 within six months of the date of this notice. If your appeal is against a Minor Commercial Development, we would advise you to view the guidance on the Planning Portal website under Procedure Guidance, to confirm the time frame for appealing. (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/appeal-planning-decision>). You must use a 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. Appeals- new time rules. Appeals relating to applications made to the Local Planning Authority on, or after, 14 October 2004 must be made within six months of the date of this notice. 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)

APPENDIX B

Delegated Report

Planning Ref: 24/00551/FUL
Applicant: Mr Christopher McManus
Ward: Hinckley Trinity



Hinckley & Bosworth
Borough Council

Site: Pond Barn, Cold Comfort Farm,
Rogues Lane, Hinckley

Proposal: Change of use and conversion of existing redundant rural building to a single family dwelling house, landscaping, and associated works (Self-build)

1. Recommendations

- 1.1. **Refuse planning permission** subject to:
- Planning reasons detailed at the end of this report.

2. Planning Application Description

- 2.1. This planning application seeks full planning permission for the conversion of an existing building into a two-storey four-bedroom dwellinghouse at Pond Barn, Cold Comfort Barn, Rogues Lane, Hinckley. The Applicant has stated that the proposal is a self-build development. The development is constructed with aluminium standing seam cladding and grey Cedral boarding.
- 2.2. Following concerns raised by the Case Officer, the red line boundaries of the site were revised on 13 August 2024 to reduce the area of land converted into residential use.

3. Description of the Site and the Surrounding Area

- 3.1. The application site is located to the north of, and outside of the identified settlement boundary of Hinckley within the open countryside. The site features the existing building that is proposed to be converted within this application, and two existing storage containers.
- 3.2. The structure within the site was approved as an agricultural building via application 10/00318/GDO. At the time it was claimed that the building was required for the storage of agricultural equipment (principally haymaking equipment) for an agricultural landholding of 5.8 hectares.
- 3.3. The application site within application 10/00318/GDO included the application site and the field to the north that is adjacent to Rogues Lane. At the time, the 2010 application site was distinct from Cold Comfort Farm, but the site has since been repurchased by the Applicant. As confirmed within the submitted Policy Statement, the agricultural use of the site and the building has ceased.

- 3.4. Since its construction, part of the existing building was granted retrospective planning permission via application 18/00353/FUL for a change of use into a dog day care centre, which was licensed to care for 30 dogs.
- 3.5. The site is wholly rural in character and is surrounded by open agricultural fields. Beyond the field to the north of the site is Rogues Lane, which is an adopted but unclassified road subject to the National Speed Limit. Beyond the field to the west of the application site, through which the site's access track runs, is Middlefield Lane which is an unadopted highway.
- 3.6. Beyond Rogues Lane to the north of the site are two agricultural properties, Westmoreland Farm and Valley Farm. Beyond Middlefield Lane to the northwest of the site is Five Acres, which is an established Gypsy and Traveller Site. There are further agricultural farms and associated dwellinghouses to the east of the site, which are separated from Pond Barn by agricultural fields.
- 3.7. Cold Comfort Farm is to the southwest of the site within a separate parcel of land. To the southwest of the Cold Comfort Farm complex are several residential properties (The Barn, The Cow Shed, Bullrush Cottage, Willow Cottage, and Lilly Cottage) and Lante Fields Farm that are all independent from Cold Comfort Farm.
- 3.8. On 21 May 2024, the Case Officer advised the Applicant that any forthcoming planning application for the conversion of the building within the site would need to refer to Policy DM15 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016). The Case Officer highlighted that Policy DM15(a) of the SADMP would be the most applicable development plan policy and that a key part of the planning application would be to demonstrate that the building is no longer viable in its current use as an agricultural building or as a dog day care centre.

4. Relevant Planning History

4.1 24/00149/P3CQ

- Change of use of agricultural steel framed barn into a single dwellinghouse (C3) (Revised Scheme of planning application 23/01012/P3CQ)
- Prior Approval Refused.
- 11.04.2023

Prior approval was refused because the development was not considered to consist of a change of use of a building and the land within its curtilage from an agricultural use, nor was it considered to be within an established agricultural unit. The proposed demolition works were also not considered to be reasonably necessary to carry out the building operations to the extent reasonably necessary for the building to function as a dwellinghouse.

4.2 23/01012/P3CQ

- Change of use of agricultural steel framed barn into a single dwellinghouse (C3)
- Prior Approval Refused.
- 13.12.2023

The development was refused because the proposal was not considered to consist of a change of use of a building and the land within its curtilage from an agricultural use, nor was it considered to be within an established agricultural unit. Therefore, the scheme was not considered to benefit from Permitted Development Rights.

4.3 18/00353/FUL

- Change of use to a dog day care centre (retrospective)
- Permitted
- 14.09.2018

4.4 10/00318/GDO

- Erection of agricultural building
- Permitted
- 25.05.2010

4.5 10/00055/GDO

- Erection of agricultural building
- Permitted
- 23.02.2010

This permission was rescinded via a unilateral undertaking during 10/00318/AGDO.

5. Publicity

- 5.1 A site notice was posted within the vicinity of the site. No responses have been received.

6. Consultation

- 6.1 There have been no objections from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollution Officer
- HBBC's Waste Management Officer (subject to conditions)
- Leicestershire County Council (LCC)'s Archaeology Department
- LCC's Ecology Unit (subject to conditions)

- Local Highway Authority (LHA) (subject to conditions)

Ecology:

- 6.2 The County Council's Ecology Department confirmed that the site is exempt from biodiversity net gain as the development is a self-build proposal. However, measurable biodiversity net gains are still required in accordance with the National Planning Policy Framework.

Officer comment: Notwithstanding the above, the Applicant has not demonstrated, nor provided any supporting information to indicate that their development can be considered as a self-build or custom-build development. Therefore, the application has also failed to demonstrate mandatory biodiversity net gain, which is contrary to, and in conflict with Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

- 6.3 Severn Trent Water did not respond to the planning application. No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):

- N/A.

- 7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM10: Development and Design
- Policy DM15: Redundant Rural Buildings
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

- 7.3 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (December 2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

- 7.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2022)
- Technical Housing Standards – Nationally Described Space Standards (2015)

8. Appraisal

8.1. The key issues in respect of this application are therefore:

- Principle of development
- Housing land supply
- Self-build and custom-dwellings
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety
- Planning balance

Principle of Development

8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

8.3 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP). In accordance with Paragraph 225 of the NPPF, due weight should be given to existing policies according to their degree of consistency with the NPPF.

8.4 Policy DM17(b) of the SADMP requires development proposals to be located where the need to travel will be minimised, and the use of sustainable transport modes can be maximised. Policy DM17 of the SADMP also states that development proposals should seek to ensure that there is convenient and safe access for walking and cycling to services and facilities; and that scheme should make the best use of existing public transport services.

8.5 The development is outside of any identified settlement boundary in a location that is likely to result in future occupants of the scheme being dependent on private motorised transport. This is likely to cause environmental harm in principle and is contrary to, and in conflict with, Policy DM17(b) of the SADMP.

8.6 Paragraph 84(c) of the NPPF confirms that planning decisions should avoid the development of isolated homes in the countryside unless the development would re-use redundant or disused buildings and enhanced its immediate setting.

8.7 This is supported by Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. Policy DM4(b) of the SADMP considers development in the countryside sustainable where the proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting.

- 8.8 Importantly, Policy DM4 of the SADMP also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.
- 8.9 Policy DM15(a) of the SADMP states that proposed development outside of settlement boundaries for the re-use and/or adaptation of redundant or disused rural buildings will be supported where the applicant demonstrates the building is no longer viable in its current use.
- 8.10 In accordance with the Merriam-Webster Dictionary, "*Redundant*," is defined as, "*Superfluous*," and therefore, "*Not needed*." "*Viable*," is defined by the Merriam-Webster Dictionary as, "*Capable of working, functioning, or developing adequately*."
- 8.11 The structure is currently used for the storage of equipment and as a dog day care business. Therefore, the building is not considered to be disused, nor redundant. This is contrary to the requirements of Paragraph 84(c) of the NPPF.
- 8.12 The Applicant has also not demonstrated that the use of the property as a dog day-care facility is no longer viable. On the contrary, the dog day-care business was served notice to leave the building by the Applicant. This is evidenced within the Design and Access Statement of refused planning application 23/00455/FUL for the change of use of land to provide a dog day care facility on land south east of Dawsons Lane in Barwell.
- 8.13 This Design and Access Statement within the refused planning application 23/00455/FUL also stated that there was, "*No suitable land for sale within a 5-mile radius of Hinckley*." Within the Appeal Statement against the refusal of this planning application, the dog day-care business confirmed that Pond Barn was, "*Ideal for the practicalities of running a business of this nature*." In addition, the Inspector's decision letter (APP/K2420/W/24/3337582) states that the alternative premises for which the dog care business sought permission, would allow the dog care business to, "*Continue to operate, as well as expand*."
- 8.14 As a result, it is evident that the use of the building as a dog day-care business is still needed and is still a viable use of the building. Whilst the Applicant may not intend to renew their rolling contract with the dog day-care business, their deliberate removal of the use does not suggest that the structure is not being currently used, nor that it is needed, nor that it cannot be capable of working, functioning, or adequately developing a dog day-care facility.
- 8.15 The Applicant has also claimed that the building is underutilised due to the ceasing of the agricultural operations and hay production, which render the storage of agricultural equipment no longer needed.
- 8.16 The building was approved via planning permission 10/00318/GDO, for the storage of agricultural equipment. At the time, Pond Barn was independent from Cold

Comfort Farm. The Case Officer also highlighted that the site did not appear to benefit from any existing or operational farm business at that time.

- 8.17 It is noted that the Applicant does not confirm when the agricultural use of the site and the building ceased. Importantly, the submitted Policy Statement only confirms that the agricultural use has ceased because the Local Planning Authority asserted this within their refusal of prior approval applications 23/01012/P3CQ and 24/00149/P3CQ. This supports the Local Planning Authority's opinion that the site and the structure have never been utilised for an agricultural use whilst owned and associated with Cold Comfort Farm.
- 8.18 Ultimately, Cold Comfort Farm is not related to an established operational or commercial agricultural landholding. This is supported by the fact that the Applicant's Lawful Development Certificate application, 15/00116/CLUE, featured sworn statutory declarations that confirmed that Cold Comfort Farm had been utilised by a groundwork contracting business since the late 1960s and was taken over by the Applicant in 2006 for their fencing and groundwork contracting business, which is still in operation today.
- 8.19 Therefore, the agricultural use of the structure has always been redundant under the ownership of the Applicant. However, this does not mean that the entire use of the structure is redundant. The property is utilised primarily for storage and for its use as a dog day-care facility. The Applicant has not sought to argue that the structure is not used for these purposes, nor that it is not capable of working, functioning, or developing adequately for these uses.
- 8.20 Whilst the building might be, "*Underutilised*," by the Applicant, this does not mean that the structure is disused or redundant, or that it cannot be used viably. Although the agricultural use of the structure and the wider land are not considered to be viable in their existing use by the Applicant, this does not suggest that they cannot be utilised for this purpose.
- 8.21 Notwithstanding the fact that the Applicant has confirmed the site is not used for agricultural purposes, the Applicant has claimed that the production of hay and the storage of equipment is no longer financially viable for them. The Applicant's position is that:
- "The income made from these uses does not cover the cost of maintaining it or the surrounding land; and that it would be of better use if converted into a bespoke home for him and his family."*
- 8.22 The Applicant has not provided any details within this application to support this statement, nor why the maintenance of one agricultural building is economically unviable. Ultimately, if the maintenance of this structure was economically unviable, the Applicant could remove the property from the site.
- 8.23 Although the Applicant has attempted to argue that the agricultural use of the structure and the surrounding land is not economic viable, this ignores the fact the

site has never been utilised for an agricultural use under its association with Cold Comfort Farm.

- 8.24 Nevertheless, the economic viability of the structure is only one material consideration of the viability of the building. As stated previously, the main consideration for the proposal is whether the existing building is disused, not needed, and not capable of working and functioning adequately.
- 8.25 Given the above, it is not considered that the Applicant has utilised the structure for its permitted purpose as a storage unit equipment in association with an operational or agricultural use. However, this does not suggest that the structure could not be used for such a purpose. The primary use of the structure was for storage, and the Applicant has not demonstrated that the use of the property is not capable of working or functioning adequately for this purpose.
- 8.26 By virtue of these factors, the proposal is not for the change of use or reuse of a redundant or disused building, and is contrary to Paragraph 84(c) of the NPPF. The Applicant has also failed to demonstrate that the structure is no longer viable in its current use as a storage building or as a dog day-care facility. Therefore, the proposal is contrary to Policy DM15(a) of the SADMP.
- 8.27 In light of the above, the scheme represents the development of an isolated home in the countryside in a location where the future occupants of the scheme are likely to be dependent on private motorised transport to meet their day-to-day needs.
- 8.28 As such, the proposal is considered to represent unacceptable unsustainable development that results in environmental harm in principle, which is contrary to Policies DM1, DM4, and DM17 of the SADMP, and Paragraph 84 of the NPPF. Nevertheless, the acceptability of the development is subject the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Housing Land Supply

- 8.29 Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), Hinckley and Bosworth Borough Council are able to demonstrate 5.6 years of deliverable housing from 29 July 2024.
- 8.30 However, due to the age of relevant housing policies within the adopted Core Strategy, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered in accordance with Footnote 8 and Paragraph 11 of the NPPF.
- 8.31 Paragraph 11(d)(ii) of the NPPF requires planning permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.32 Given the Council's ability to deliver a five-year supply of land for housing, the provision of one dwelling within this application site is of no significant benefit to the

housing land supply within the Borough. It is therefore considered that very limited weight should be given to the provision of the proposed dwelling.

Custom and Self-Build Housing (CSB)

- 8.33 Section 1 of the Self-Build and Custom Housebuilding Act defines self-build and custom housebuilding as the building or completion of houses by individuals, associations of individuals, or persons working with or for individuals or associations of individuals to be occupied by as homes by those individuals.
- 8.34 The Applicant claims within their Application Form and Design and Access Statement that the proposed development is classified as a 'self-build' within the definition provided within the Self-Build and Custom Housebuilding Act 2015.
- 8.35 Whilst the Applicant was sent a Self- and Custom-Build Evidence Form to complete, this has not been completed, nor submitted to support the development. Therefore, the Applicant has not demonstrated that the scheme cannot be considered as a Custom and Self-Build Development.
- 8.36 Nevertheless, Section 2A of the Self-Build and Custom Housebuilding Act places a statutory duty on the Local Planning Authority to give permission to a sufficient number of self-build and custom housebuilding developments on serviced plots to meet the demand for self-build and custom housebuilding in the Authority's area.
- 8.37 Notwithstanding this, to date, Hinckley and Bosworth Borough Council does not have a shortfall of self-build and custom housebuilding.
- 8.38 Whilst the Council requires 19 suitable cumulative permissions to be granted by 30 October 2024, it must be noted that, as of 01 May 2024, the Council has currently granted 12 permissions for custom and self-build housing in this period so only 7 further permissions need to be granted before 30 October 2024. In addition, the Council will only be considered to have a shortfall if a sufficient number of suitable permissions have not been achieved after this date.
- 8.39 As the Council have supplied more suitable permissions than demand required at the end of Base Period 7 (31 October 2021 to 30 October 2022), and more suitable permissions than the demand for the next base period, it is considered that no weight can be given to the benefits of contributing to the supply of self-build and custom build dwellings at this moment in time.

Design and Impact upon the Character of the Area

- 8.40 Policy DM4(i) 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

- 8.41 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.42 Policy DM15(b) and (c) of the SADMP states that proposed development outside the settlement boundary for the re-use and/or adaptation of redundant or disused rural buildings will be supported where:
- (b) The applicant has adequately demonstrated the building is within a structurally sound condition and is capable of conversion without significant rebuild or alteration; and
 - (c) Any proposed extension (s) or alterations are proportionate to the size, scale, mass, and footprint of the original building and situated within the original curtilage.
- 8.43 In accordance with Policy DM15 of the SADMP and Paragraph 84(c) of the NPPF, all development proposals for the re-use of redundant rural buildings should result in the enhancement of the immediate setting.
- 8.44 Although the Applicant has not demonstrated that the building is structurally sound, it is considered that the structure is capable of conversion without significant rebuild or alteration. In addition, the proposal does not feature any extensions and therefore it is considered that the design of the scheme is proportionate to the size, scale, mass, and footprint of the original building.
- 8.45 Notwithstanding this, the scheme represents the development of an isolated home in the countryside in a location where the future occupants of the scheme are likely to be dependent on private motorised transport to meet their day-to-day needs. As such, the proposal is considered to represent unacceptable unsustainable development that results in environmental harm, which is contrary to Policies DM4 and DM17 of the SADMP.
- 8.46 Furthermore, this proposal represents a new and unjustified residential development outside of any identified settlement boundary in the countryside. This use is considered to urbanise and therefore fundamentally and detrimentally alter the character and appearance of the site, its immediate setting, and the surrounding area. This significant adverse effect is considered to be contrary to, and in conflict with, Policies DM4, DM10, and DM15 of the SADMP.

Impact upon Residential Amenity

- 8.47 Policy DM10(a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.

- 8.48 There are no neighbouring properties in the immediate vicinity of the site. Therefore, the development is unlikely to result in any adverse impacts on the residential amenity of neighbouring residents.
- 8.49 To support the residential amenity of future occupiers of the scheme, one of the aims of Section 4 (New Residential Development) within The Good Design Guide is to ensure that new residential development exceeds the internal space standards set by the Technical Housing Standards (THS) (2015) wherever possible.
- 8.50 The development exceeds the minimum floor space and in-built storage requirements of the THS. Whilst all bedrooms comply with the minimum requirements of the THS, only the Master Bedroom complies with Paragraphs 10(d) and (e) on the first floor of the property due to the floor-to-ceiling constraints of the structure.
- 8.51 To comply with the Good Design Guide, four-bedroom houses must also provide a minimum of 80sqm of private outdoor amenity space with a minimum length of 7m.
- 8.52 The development is considered to comply with the requirements of the Good Design Guide.
- 8.53 By virtue of these factors and the fact that there have been no objections to the scheme, the proposal does not result in any adverse impacts to the residential amenity of neighbouring properties, nor to the future occupants of the development. Therefore, the proposal is considered to be in accordance with parts a) and b) Policy DM10 of the SADMP and the Good Design Guide as it relates to the amenity of neighbours and future occupiers.

Impact upon Parking Provision and Highway Safety

- 8.54 Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe.
- 8.55 Based on the records available to the Local Highway Authority (LHA), there have been no recorded Personal Injury Collisions (PICs) within 500m of the site access within the last five years.
- 8.56 No amendments are proposed to the existing site access arrangements via Middleton Lane and Rogues Lane. The LHA are satisfied that the proposed development is unlikely to result in a material increase or a material change in the character of traffic in the vicinity of the site or create any additional highway safety issues. On this basis, the LHA have no objections to the site access arrangements.
- 8.57 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.

- 8.58 The development provides three off-street parking spaces for the four-bedroom property in accordance with the requirements of the Leicestershire Highway Design Guide (LHDG). The LHA are also satisfied that there is sufficient turning space available within the plot.
- 8.59 By virtue of these factors, the proposal does not create an unacceptable impact on highway safety or the road network. Therefore, the scheme is regarded as in accordance with Policies DM17 and DM18 of the SADMP, and the LHDG.

Planning Balance

- 8.60 To summarise, the Council can demonstrate a 5-year housing land supply. However, due to the age of relevant housing policies within the adopted Core Strategy, it is still necessary to consider that the 'tilted' balance in Paragraph 11(d) of the NPPF whereby planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.61 It is acknowledged that there are potential social benefits from the scheme such as providing an additional dwelling to the supply in the Borough. This is given very limited weight in the planning balance. The scheme could also provide economic benefits associated with the change in the use of the building, and the future occupants' opportunity to act as new customers and employees for local businesses and services.
- 8.62 Nevertheless, these benefits when associated with one dwelling are very modest and are not considered to maintain or enhance the local community. In addition, there are no planning benefits such as affordable housing or essential infrastructure provision as identified within Paragraph 12.13 of the SADMP. Therefore, the benefits of the development attract very limited weight in the planning balance.
- 8.63 The Applicant has failed to demonstrate that the building is either redundant or disused, which is contrary to Paragraph 84(c) of the NPPF and Policy DM15(a) of the SADMP.
- 8.64 On the contrary, the structure is clearly used for an existing dog day care business that is struggling to find alternative premises where it can continue to operate and expand. Whilst the Applicant may not intend to renew their rolling contract with the dog day-care business, their deliberate removal of the use does not suggest that the structure is not being currently used, nor that it is needed, nor that it cannot be capable of working, functioning, or adequately developing a dog day-care facility. Ultimately, approval of the application in these circumstances would send an entirely inappropriate message regarding the eviction of businesses from rural buildings and the conversion of them to new homes.
- 8.65 Furthermore, although it is not considered that the Applicant has utilised the structure for its permitted purpose as a storage unit equipment in association with an operational or agricultural use, this does not suggest that the structure could not

be used for such a purpose. The primary use of the structure was for storage, and the Applicant has not demonstrated that the use of the property is not capable of working or functioning adequately for this purpose. This is also supported by the presence of two existing storage containers within the site.

- 8.66 As a result, the scheme represents new and unjustified isolated residential development outside of any identified settlement boundary in the countryside. Due to the location of the development, the future occupants of the scheme are likely to be dependent on private motorised transport to meet their day-to-day needs, which results in environmental harm.
- 8.67 Furthermore, the urbanising effects of the development would fundamentally and detrimentally alter the character and appearance of the site, its immediate setting, and the surrounding area. These significant adverse effects are considered to be contrary to, and in conflict with, Policies DM4, DM10, DM15, and DM17 of the SADMP as well as Paragraph 84 and Sections 12 and 15 of the NPPF. This harm is considered to significantly and demonstrably outweigh the very limited potential benefits of the development.

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, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this 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 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be refused.

11. Recommendation**11.1 Refuse planning permission** subject to:

- Planning reasons detailed at the end of this report.

11.2 Reason(s):

1. The building that is the subject of this application is not redundant or disused and the proposal represents new and unjustified isolated residential development outside of any identified settlement boundary in the countryside. Due to the location of the development, the future occupants of the scheme are likely to be dependent on private motorised transport to meet their day-to-day needs, which results in environmental harm. Ultimately, the urbanising effects of the development fundamentally and detrimentally alter the character and appearance of the site, its immediate setting, and the surrounding area. These significant adverse effects are considered to be contrary to, and in conflict with, Policies DM4, DM10, DM15, and DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) as well as Paragraph 84, Sections 5, 12 and 15, and the overarching aims of the National Planning Policy Framework (December 2023). This harm is considered to significantly and demonstrably outweigh any potential benefits of the development.
2. The Applicant has failed to demonstrate that their proposal is exempt from their mandatory biodiversity net gain requirements. As a result, the application has failed to deliver the mandatory 10% biodiversity net gain, which is contrary to, and in conflict with the requirements of Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).

a. Note(s) to Applicant:

1. The application has been determined in accordance with the following submitted details:
 - Application Form (submitted: 03.06.2024)
 - Design and Access (submitted: 03.06.2024)
 - Ecology Survey (submitted: 03.06.2024)
 - Ground Investigation Report (submitted: 03.06.2024)
 - Policy Statement (submitted: 05.09.2024)
 - Proposed Elevations 8895-03 – 0200 (submitted: 03.06.2024)
 - Proposed First Floor Plan 8895-03 – 0101 (submitted: 03.06.2024)

- Proposed Ground Floor Plan 8895-03 – 0100 (submitted: 03.06.2024)
- Proposed Roof Plan 8895-03 – 0102 (submitted: 03.06.2024)
- Proposed Site Layout 8895 03 0002 PL3 (submitted: 13.08.2024)
- Site Location Plan 8895 03 001 PL3 (submitted: 13.08.2024)
- Submission Statement (submitted: 03.06.2024)

APPENDIX C

Hinckley & Bosworth Borough Council

Town and Country Planning Act 1990

PLANNING PERMISSION

Name and Address of Applicant

Mr Daemon Johnson
61 Old Mill Road
Broughton Astley
Leicester
LE9 6PQ

Name and Address of Agent (if any)**Part I - Particulars of Application**

Date of Application

6 April 2018

Application No.

18/00353/FUL

Particulars and location of development :

Change of use to a dog day care centre (retrospective)

Cold Comfort Farm Rogues Lane Hinckley Leicestershire LE10 3DX

Part II - Particulars of decision

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

In pursuance of its powers under the Town and Country Planning Act 1990, the Hinckley and Bosworth Borough Council grants permission for the carrying out of the development referred to in Part I hereof in accordance with the application form and plans submitted, subject to the following conditions :-

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details as follows: Site Location Plan (1:2500), parking plan (1:1250) received on the 6.04.2018 and proposed floor plan received by the Local Planning Authority on the 18 June 2018.

Reason: To ensure a satisfactory appearance and impact of the development to accord with Policies DM1, DM4 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

2. Within one month of the date of this permission, specifications of the proposed acoustic fencing to be erected to the external parameters of the exercise area shall be submitted to and agreed in writing by the Local Planning Authority. The agreed acoustic fencing shall be erected within one month following the agreement from the Local Planning Authority and retained in perpetuity.

Reason: In the interests of protecting residential amenity in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

3. There shall be no more than 30 dogs on site at any one time.

Reason: In the interests of protecting residential amenity in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

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

4. There shall be no dogs on site in connection with the business hereby approved except between the hours of 1000 to 1600 from Mondays to Fridays and at no times at weekends or Bank Holidays.

Reason: To ensure that the use is compatible with the surrounding countryside and to protect the amenities of neighbouring residents in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

5. Dogs associated with the day care, shall be brought to the site by employees of the business hereby approved only and not by visiting members of the public.

Reason: To protect the amenities of neighbouring residents, and to reduce vehicular movements to accord with Policies DM10 and DM17 of the Site Allocations and Development Management Policies DPD.

NOTES TO APPLICANT :-

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.



Nicola Smith
Interim Head of Planning

Date : 14 September 2018

NOTES

1. It will be most helpful if the application number shown overleaf is quoted in 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. If you are aggrieved by the decision of the Local Planning Authority to grant permission subject to conditions, you may appeal to the Secretary of State for the Environment in accordance with Section 78 of the Town and Country Planning Act 1990 within six months (see para 2a below) 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 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 the 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 the directions given under the order. He does not in practice refuse to entertain appeals solely because the decision by the Local Planning Authority was based on a direction given by him. Appeals- new time rules. Appeals relating to applications made to the Local Planning Authority on, or after, 5th September 2003 must be made within six months of the date of this notice.
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 granted subject to conditions, 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 or granted subject to conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
7. This permission covers only consent under the Town and Country Planning Acts and does not give permission to demolish a Listed Building, for which separate consent is required. Amongst other things the consent of the Council of the district in which the land is situated may be required under the Building Regulations and if the proposals affect land within the limits of the highway (that is between the highway fences or hedges) the separate consent of the Highway Authority may also be required. Steps to obtain the necessary further consents should be taken before proceeding with the development.

SHOPS, OFFICES, FACTORIES, EDUCATIONAL BUILDINGS & BUILDINGS TO WHICH THE PUBLIC ARE TO BE ADMITTED : ACCESS AND PROVISION FOR THE DISABLED PERSONS

- 1 The Local Planning Authority is required to bring to your attention the requirements of the Disabled Persons 1981, Building Regulations 1991 "Access and facilities for Disabled People" document M and the Chronically Sick & Disabled Act 1970 (as amended 1976) (Sections 4.7.8 and 8A) requiring the provision of access facilities, car parking and toilets for the disabled and the provision of signing indicating what provision has been made for disabled persons within the building. Your attention is also drawn to the Code of Practice B.S 5619 "Design of Housing for the convenience of Disabled People", 1978 and Code of Practice, B.S. 5810 : 1979, "Access for the Disabled to buildings" available from the British Standards Institution, 2 Park Street, London W1A 2BS. (Tel 071-629-9000) and (in so far as educational buildings are concerned), to Design Note 18 "Access for the Physically Disabled to Educational Buildings."
- 2 The buildings to which these requirements apply are :-
 - a) Buildings to which the public are to be admitted to which Section 4 of the Chronically Sick & Disabled Act 1970 (as amended 1976) applies.
 - b) Offices, Shops & Railway Premises as defined in the Offices, Shops & Railway Premises Act 1963 or premises deemed to fall within the Act.
 - c) Factories as defined by Section 175 of the Factories Act 1961.
Educational Buildings as defined by Section 29B of the Disabled Persons Act 1981.



Hinckley & Bosworth
Borough Council

Start Notice

Important Information – Please keep this with your decision notice

Please read the above decision notice carefully and ensure that you understand and comply with the requirements of any planning conditions imposed.

If you require any further information about why a particular planning condition has been imposed or in respect of what information is needed to discharge your condition please contact the case officer who will be happy to advise of the requirements and information required.

We carry out a programme of site monitoring to check compliance with conditions in order to proactively manage the development and to ensure development is carried out in accordance with the planning permission granted.

Please ensure that any application for the discharge of pre-commencement conditions are carried out in a timely manner as this may take up to 8 weeks depending on the requirements of the condition. Please also be aware there is a charge to discharge conditions per request which means you can discharge conditions individually or group details together as a single request to discharge multiple planning conditions. The fee for discharging these pre-commencement conditions, can be found on the [planning portal](#).

We would be grateful if you could email the development address and application reference number with your contact details and the intended start date by email to planning@hinckley-bosworth.gov.uk or complete the form on the reverse.

Hinckley & Bosworth Borough Council
Hinckley Hub, Rugby Road, Hinckley, Leicestershire, LE10 0FR
TEL: 01455 238141 EMAIL: planning@hinckley-bosworth.gov.uk



Hinckley & Bosworth
Borough Council

Development Details

Planning application ref:	18/00353/FUL
Proposal:	Change of use to a dog day care centre (retrospective)
Site Location:	Cold Comfort Farm Rogues Lane Hinckley Leicestershire LE10 3DX

Date when work is intended to start:	
Have all pre-commencement conditions been discharged?	
Signed:	Print Name:

Your contact details (or attach letterhead/business card):

Name:	
Address:	
Telephone:	
Mobile:	
Email:	

Hinckley & Bosworth Borough Council
Hinckley Hub, Rugby Road, Hinckley, Leicestershire, LE10 0FR
TEL: 01455 238141 EMAIL: planning@hinckley-bosworth.gov.uk

APPENDIX D

Delegated Report

Planning Ref: 24/00149/P3CQ
Applicant: Mr Christopher McManus
Ward: Hinckley Trinity



Hinckley & Bosworth
Borough Council

Site: Pond Barn Cold Comfort Farm Rogues Lane

Proposal: Change of use of agricultural steel framed barn into a single dwellinghouse (C3) (Revised Scheme of planning application 23/01012/P3CQ)

1. Recommendations

1.1. Refuse Prior Approval subject to:

- Planning reasons outlined at the end of this report.

2. Planning Application Description

2.1. This is an application for prior notification under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of an existing steel framed agricultural building into a three-bedroom dwellinghouse at Pond Barn, Cold Comfort Farm, Rogues Lane, Hinckley.

2.2. The development is constructed with vertical black timber cladding on the ground floor, and aluminium standing seam cladding on the upper floor. The scheme also features a grey rendered chimney.

2.3. This is a resubmission of the refused prior approval application 23/01012/P3CQ. Within this new application, the proposal demolishes the existing 91.3sqm area of the structure that is currently used as a dog daycare. Following this, all external cladding is replaced to ensure adequate thermal performance and only the frame and floor slab are retained.

3. Description of the Site and the Surrounding Area

3.1. The application site is located to the north of, and outside of the identified settlement boundary of Hinckley within the open countryside. The site slopes from south to north and from west to east and features mature hedges along all boundaries of the site. Within the application site, the site features an existing agricultural structure, a pond, and two storage containers.

3.2. The building was approved via planning permission 10/00318/GDO, which was required for the storage of agricultural equipment (principally haymaking equipment) solely for use within this agricultural unit, which was originally distinct from Cold Comfort Farm, which consists of two fields with a total area of 5.8 hectares. The Applicant submitted a unilateral undertaking with the application to rescind the previous approval, 10/00055/GDO.

3.3. Part of the existing building was granted retrospective planning permission via 18/00353/FUL for a change of use into a dog day care centre, which was licensed to care for 30 dogs. The proposal included internal partitioning and an external fenced exercise area that enclosed the southwest of the existing building. Following a discussion with a member of the dog day care centre, Hinckley Pets in Home, on 02 November 2023, they confirmed that they had been served notice on the site and they were seeking planning permission for a facility in a new location via application 23/00455/FUL. That application was refused at Planning Committee on 09 November 2023.

- 3.4. The site is wholly rural in character and is surrounded by open agricultural fields. The application site is bordered by Rogues Lane to the north, and Middlefield Lane to the west. Beyond Rogues Lane is two further agricultural commercial properties, Westmoreland Farm and Valley Farm, whereas beyond Middlefield Lane is Five Acres, an established Gypsy and Traveller Site, and Hinckley Fields Farm.
- 3.5. Cold Comfort Farm is to the south of the site within a separate parcel of land, and beyond Cold Comfort Farm is several residential properties (The Barn, The Cow Shed, Bullrush Cottage, Willow Cottage, Lilly Cottage) and Lante Fields Farm that are independent to Cold Comfort Farm. Rogues Lane Nurseries is to the northeast of the site and there are two further agricultural buildings to the east of the site, I.C. Fields Farm, and Frith House Farm.
- 3.6. Rogues Lane is an adopted but unclassified road subject to the National Speed Limit. In 2016, despite the contentious background of Middlefield Lane, the Local Highway Authority confirmed that they consider the route to be a highway, however there is insufficient evidence to support the view that the highway is adopted.
- 3.7. It is noted that several applications have been submitted for the change of use of agricultural structures and ancillary buildings to residential properties within, or adjacent to, Cold Comfort Farm, including: 04/01361/CLU (Approved), 06/01100/FUL (Withdrawn), 07/01145/FUL (Approved), 10/00726/EXT (Withdrawn), 11/00505/FUL (Approved), 12/00275/FUL (Withdrawn), 12/00542/FUL (Approved), 14/00978/CMBGDO (Refused), 17/00261/CLUE (Approved), 17/00269/CQGDO (Withdrawn), 17/00662/CQGDO (Approved), 20/00485/FUL (Refused), 21/00201/FUL (Withdrawn), and 22/01009/FUL (Approved).

4. Relevant Planning History

4.1 23/01012/P3CQ

- Change of use of agricultural steel framed barn into a single dwellinghouse (C3)
- Prior Approval Refused.
- 13.12.2023

The development was refused because the proposal was not considered to consist of a change of use of a building and the land within its curtilage from an agricultural use, nor was it considered to be within an established agricultural unit. Therefore, the scheme was not considered to benefit from Permitted Development Rights.

4.2 18/00353/FUL

- Change of use to a dog day care centre (retrospective)
- Permitted
- 14.09.2018

4.3 10/00318/GDO

- Erection of agricultural building
- Permitted
- 25.05.2010

4.4 10/00055/GDO

- Erection of agricultural building
- Permitted
- 23.02.2010

This planning permission has since been rescinded via a unilateral undertaking that was submitted by the Applicant with the planning application, 10/00318/GDO.

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.
- 5.2. No responses have been received.

6. Consultation

- 6.1. No objections have been received from the following:
 - Hinckley and Bosworth Borough Council (HBBC)'s Drainage Officer
 - HBBC's Environmental Services' Pollution Officer
 - Leicestershire County Council (LCC)'s Ecology Department (subject to conditions)
 - The Local Highway Authority (LHA) (subject to conditions)

Ecology

- 6.2. The County Council's Ecology Department confirmed that, in light of the Preliminary Ecological Appraisal (submitted: 15.02.2024), they had no objections to the development. Notwithstanding this, the County Council's Ecology Department recommended a planning condition regarding the provision of a biodiversity enhancement scheme to be secured via prior to the commencement of the development.
- 6.3. The Council's Waste Management Officer did not comment on the proposal.
- 6.4. No further comments have been received.

7. Policy

- 7.1. Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class Q
- 7.2. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (December 2023)
 - Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. The main considerations in respect of this application are whether the proposed change of use meets the criteria for permitted development of Class Q of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO), which relates to development consisting of a change of use of a building and any land within its curtilage from a use of an agricultural building to a use falling within Class C3 (dwellinghouses) of Part 3 of Schedule 2 of that Order.
- 8.2. For the purpose of Class Q, a, "*Larger dwellinghouse*," means a dwellinghouse developed under Class Q which has a floor space of more than 100 square metres and no more than 465 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order. On the other hand, a, "*Smaller dwellinghouse*," means a dwellinghouse developed under Class Q which has a floor space of no more than 100 square metres having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order.

Q.1. – (1) Development is not permitted by Class Q if –

- (a) the site was not used solely for an agricultural use as part of an established agricultural unit**
 - (i) on 20th March 2013, or**
 - (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last time in use, or**
 - (iii) in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins**

Although planning application 18/00353/FUL granted planning permission for the partial use of the structure as a dog day care centre, which is not an agricultural use, this area of the building is demolished within this application to seek to ensure that the scheme complied with Paragraph Q.1(a) of Class Q of Part 3 of Schedule 2 of the GPDO.

Notwithstanding this, the structure proposed for conversion was granted prior approval by the Local Planning Authority via application 10/00318/GDO. Within the Delegated Officer Report for this application, the Case Officer noted that the site had been sold and was consequently independent from Cold Comfort Farm. The Case Officer also highlighted that the site did not appear to benefit from any existing farm business operating from the site at that time.

Since then, the Applicant claims within their Design and Access Statement that they have reclaimed the barn and the associated land for the storage and distribution of hay. In spite of this, no date, nor evidence, has been provided as to when the Applicant rebought the land and whether it has ever been utilised solely as an agricultural use as part of an established agricultural unit.

It was evident from the current Planning Officer's site visit that neither Cold Comfort Farm, nor the application site, featured any existing agricultural use. Whilst the structure featured a small tractor, this was not considered to support the suggestion that the building supported an existing agricultural use.

This is supported by the fact that the Applicant's Lawful Development Certificate application, 15/00116/CLUE, featured sworn statutory declarations that confirmed that Cold Comfort Farm had been utilised by a groundwork contracting business since the late 1960s and was taken over by the Applicant in 2006 for their fencing and groundwork contracting business, which is still in operation today.

In light of the above, it is not considered that the existing building, the application site, nor Cold Comfort Farm, are used solely for an agricultural use, nor utilised as part of an established agricultural unit. Therefore, the application site is contrary to, and in conflict with Paragraph Q.1(a) of Class Q of Part 3 of Schedule 2 of the GPDO and is not considered to benefit from Permitted Development Rights.

- (b) *In the case of –*
- (i) *A larger dwellinghouse, within an established agricultural unit*
 - (aa) *the cumulative number of separate larger dwellinghouses developed under Class Q exceeds 3; or*
 - (bb) *the cumulative floor space of the existing building or buildings changing use to a larger dwellinghouse or dwellinghouses under Class Q exceeds 465 square metres;*
 - (ba) *the floor space of any dwellinghouse developed under Class Q having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 465 square metres;*

Only one dwellinghouse is developed within this scheme with a footprint of 202.1sqm.

- (c) *In the case of –*
- (i) *A smaller dwellinghouse within an established agricultural unit –*
 - (aa) *the cumulative number of separate smaller dwellinghouses developed under Class Q exceeds 5; or*
 - (bb) *the floor space of any one separate smaller dwellinghouse having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeds 100 square metres.*

Only one dwellinghouse is developed within this scheme with a footprint of 202.1sqm.

- (d) *The development under Class Q (together with any previous development under Class Q) within an established agricultural unit would result in either or both of the following –*
- (i) *a larger dwellinghouse or larger dwellinghouses having more than 465 square metres of floor space having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order;*
 - (ii) *the cumulative number of separate dwellinghouses having a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order exceeding 5;*

No previous development under Class Q is established within the site and the building subject to the Class Q development has a floorspace of 202.1sqm and only converts the structure into one dwellinghouse.

- (e) *The site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained*

The site is not occupied under an agricultural tenancy.

- (f) *Less than 1 year before the date development begins–*
- (i) *An agricultural tenancy over the site has been terminated, and*
 - (ii) *The termination was for the purpose of carrying out development under Class Q,*

Unless both the landlord and the tenant have agreed in writing that the site is no longer required for agricultural use

An agricultural tenancy over the site has not been terminated less than 1 year before the date development begins.

- (g) *Development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) have been carried out on the established agricultural unit*
- (i) *Since 20th March 2013; or*
 - (ii) *Where development under Class Q begins after 20th March 2023, during the period which is 10 years before the date development under Class Q begins*

No development under Class A(a) or Class B(a) of Part 6 of this Schedule (agricultural buildings and operations) have been carried out on the established unit since 20th March 2013.

- (h) *The development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point*

The scheme does not result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point.

- (i) *The development under Class Q(b) would consist of building operations other than—*
- (i) *The installation or replacement of—*
 - (aa) *windows, doors, roofs, or exterior walls, or*
 - (bb) *water, drainage, electricity, gas, or other services,*

To the extent reasonably necessary for the building to function as a dwellinghouse; and

The scheme only consists of the building operations identified within Q.1(i).

- (ii) *Partial demolition to the extent reasonably necessary to carry out building operations allowed by Paragraph Q.1(i)(i);*

The proposal involves the demolition of 91.3sqm of the existing structure. Whilst this demolition work is required to ensure that the development complies with Paragraph Q.1(a) of Class Q of Part 3 of Schedule 2 of the GPDO, it is not considered that these works are required to the extent reasonably necessary to carry out building operations allowed by Paragraph Q.1(i) (i) of Class Q of Part 3 of Schedule 2 of the GPDO, nor to the extent reasonably necessary for the building to function as a dwellinghouse. The proposal is therefore considered to be in conflict with Paragraph Q.1(i) (ii) of Class Q of Part 3 of Schedule 2 of the GPDO.

- (j) *The site is on article 2(3) land;*
- (k) *The site is, or forms part of—*
 - (i) *A site of special scientific interest;*
 - (ii) *A safety hazard area;*
 - (iii) *A military explosives storage area*
- (l) *The site is, or contains, a scheduled monument; or*
- (m) *The building is a listed building*

The application site is not on article 2(3) land, it does not form a site of special scientific interest, a safety hazard area or a military explosives storage area and the site does not contain a scheduled monument, nor is the building a Listed Building.

Conditions

Q.2. –(1) *Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to—*

- (a) *transport and highways impact of the development,*

Based on available records to the Local Highway Authority, there have been no recorded Personal Injury Collisions on Rogues Lane within 500m either side of its junction with Middleton Lane.

No amendments are proposed to the existing site access via Middleton Lane and Rogues Lane, the Local Highway Authority are satisfied that the proposal is unlikely to result in a material increase or a material increase, or a material change in the character of traffic in the vicinity of the site or create any additional highway safety issues.

The scheme provides three off-street vehicle parking spaces, which is considered to be acceptable in accordance with Paragraph 3.151 of Part 3 of the Leicestershire Highway Design Guide (2022).

- (b) *noise impacts of the development,*

The proposal is for one three-bedroom dwelling and therefore it is not considered that the noise impacts of the development have a significant adverse impact on any neighbouring residential amenity. In addition, the loss of the commercial dog day care centre is likely to reduce any potential noise impacts to neighbouring properties.

- (c) *contamination risks on the site,*

No contamination risks have been identified on the site and the Council's Pollution Officer has no objections to the scheme.

- (d) *flooding risks on the site,*

According to the Environment Agency (EA) website, the application site is located within Flood Zone 1, designated as low probability of flooding from rivers and sea, and the principle of residential development in low flood risk areas is acceptable. The EA Surface Water mapping indicates that there is a medium risk of flooding from surface water to the northern extent of the site. In light of the above, the Council's Drainage Officer has no objections to the scheme.

- (e) *whether the location or siting of the building makes it otherwise impractical or undesirable for the building to change from agricultural use to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order,*

This application site is an isolated location outside of any identified settlement boundary. Whilst this likely to make the site and the structure impractical or undesirable for a residential conversion it is noted that the application site is in close proximity to other residential properties such as Cold Comfort Farm and Lante Fields Farm. Therefore, the development is considered to be acceptable in these site-specific circumstances.

- (f) *the design or external appearance of the building, and*

The design of the development features a rendered finished chimney, which is not considered to preserve the agricultural character of the surrounding area. This considered to result in harm to the character of the surrounding area. Notwithstanding this, the overall design of the scheme is not considered to result in any significant harm to the character of the surrounding area.

- (g) *the provisions of adequate natural light in all habitable rooms of the dwellinghouses*

There are windows to every habitable room, which are supported with rooflights on the first floor. It is considered that the application provides an adequate provision of natural light in all habitable room of the dwellinghouse.

and the provisions of Paragraph W (prior approval) of this Part apply in relation to that application.

The application accords with the provisions of Paragraph W (prior approval) of this Part.

- (2) *Where the development proposed is development under Class Q(a) only, development is permitted subject to the condition that before beginning the development, the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to the items referred to in subparagraphs (1)(a) to (e) and (g), and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.*

Note to Applicant.

- (3) *Development under Class Q is permitted subject to the condition that development under Class Q(a), and under Class Q(b), if any, must be completed within a period of 3 years starting with the prior approval date.*

Note to Applicant.

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, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this 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 application is not considered to meet the conditions of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is therefore not considered to benefit from Permitted Development Rights.

11. Recommendation

11.1 **Prior approval refused** subject to:

- Reasons outlined at the end of this report.

11.2 **Conditions and Reasons**

1. The development is not considered to consist of a change of use of a building and the land within its curtilage from an agricultural use, nor is it considered to be within an established agricultural unit. The proposed demolition works are also not considered to be reasonably necessary to carry out the building operations, as detailed within Paragraph Q.1(i) (i) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), to the extent reasonably necessary for the building to function as a dwellinghouse. Therefore, the proposal is contrary to, and in conflict with, Paragraphs Q.1(a) and Q.1(i) (ii) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and is therefore not considered to benefit from Permitted Development Rights.

a. **Notes to Applicant**

1. This application was assessed by the documents submitted by the Applicant that were received by the Local Planning Authority, as follows:
 - Application Form (submitted: 15.02.2024)
 - Covering Letter (submitted: 15.02.2024)
 - Design and Access Statement (submitted: 15.02.2024)
 - Existing Floor Plans and Elevations 8895-03 – 000 (submitted: 15.02.2024)
 - Preliminary Ecological Appraisal (submitted: 15.02.2024)
 - Proposed Demolition Plan 8895-03 – 000 (submitted: 15.02.2024)
 - Proposed Elevations 8895-03 – 0200(submitted: 15.02.2024)
 - Proposed First Floor Plan 8895-03 – 0101 (submitted: 15.02.2024)
 - Proposed Ground Floor Plan 8895-03 – 0100 (submitted: 15.02.2024)
 - Proposed Roof Plan 8895-03 – 0102 (submitted: 15.02.2024)
 - Proposed Site Layout 8895-03 – 0002 (submitted: 15.02.2024)
 - Site Location Plan 8895-03 – 0001 (submitted: 15.02.2024)



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