Hinckley & Bosworth Borough Council

A Borough to be proud of

Town and Country Planning Act 1990

REFUSAL OF CERTIFICATE OF LAWFUL EXISTING USE

Name and Address of Applicant

Leicestershire County Council
County Hall
Glenfield
Leicestershire
LE3 8RE

Name and Address of Agent (if any)

Mrs Rebecca Woolley
Leicestershire County Council
Property Services
Room 700
County Hall
Glenfield
Leicestershire
LE3 8RE

Part I - Particulars of Application

Date of Application	**Application No.**
3 August 2009	09/00593/CLU

Particulars and location of development:

CERTIFICATE OF LAWFUL EXISTING USE FOR CONTINUED USE AS A HIGHWAYS DEPOT

Leicestershire County Council Copt Oak Road Copt Oak Markfield Leicestershire

Part II - Particulars of decision

In pursuance of its powers under Section 191 of the Town and Country Planning Act 1990 as substituted by Section 10 of the Planning and Compensation Act 1991, Hinckley and Bosworth Borough Council hereby refuses to issue a Certificate of Lawful Existing Use in respect of the use referred to in Part I above for the following reason(s) :-

1. In light of the advice set out in circular 10/97, and in particular, para 8.21, it is considered that the applicant's evidence is not sufficiently precise and unambiguous to justify the grant of a Certificate.

NOTES TO APPLICANT :-

1. The applicant is advised that Paragraph 8.11 of Circular 10/97: Enforcing Planning Conditions notes that the purpose of Section 191 (1) (a) (and article 24(1) to (4) of the Town and Country Planning (General Development Procedure) Order 1995), is to ascertain whether specific uses, operations or other activities are or would be lawful. Paragraph 8.11 goes on to say: "[The provisions] do not enable anyone to ask the general question, 'what is or would be lawful'. For this reason, the applicant must precisely describe what is being applied for .... It is insufficient ..... merely to specify one of the 'use classes' .....".

   Your attention is also drawn to paragraph 8.17 where it is stated: "By virtue of section 195 (5) (b), a lawful development certificate must include a description of the use, operations or other matters for which it is granted regardless of whether the matter falls within a 'use class' of the Use Classes Order. But where within a use class, a lawful development certificate must also specify the relevant 'class'. In all cases the description must be more than simply a title or label".

IMPORTANT – PLEASE REFER TO THE NOTES AT THE END OF THIS DOCUMENT

It is recommended that should the applicant resubmit the application further information be provided that demonstrates the specific uses, operations or other activities and the location on the site in which these have predominantly taken place.

T. M Prowse

TREVOR PROWSE
PROPER OFFICER OF THE COUNCIL

Date : 5 October 2009

NOTES

1. It will be most helpful if the application number shown overleaf is quoted on all correspondence.

2. If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission he may appeal to the Planning Inspectorate 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, Room 305(K), Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN or by telephoning 0117 372 6372). 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.

2a. 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.

3. 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.

4. 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.

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