HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Hinckley & Bosworth Borough Council

APPEAL BY MR R NEEP AGAINST THE REFUSAL OF FULL PLANNING PERMISSION FOR ALTERATIONS TO AND CHANGE OF USE OF REDUNDANT AGRICULTURAL BUILDINGS TO CLASS B1(C)(LIGHT INDUSTRY)/CLASS B8 (STORAGE OR DISTRIBUTION) USE AT FOREST VIEW FARM, PECKLETON LANE, DESFORD, LEICESTERSHIRE

HBBC REFERENCE 10/00149/FUL

THE PLANNING INSPECTORATE REFERENCE APP/K2420/A/10/2130136/NWF

JULY 2010 - WRITTEN REPRESENTATIONS

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1.0 Introduction

1.1 This statement should be read in conjunction with additional evidence to be provided in a separately submitted statement from Leicestershire County Council as the highway authority in respect of the reason for refusal relating to highway safety which collectively represent the statement of case to support of the decision of Hinckley and Bosworth Borough Council to refuse full planning permission for alterations to and change of use of redundant agricultural buildings to Class B1(c)(Light Industry) and Class B8 (Storage or Distribution) Use at Forest View Farm, Peckleton Lane, Desford, Leicestershire.

2.0 The Appeal Site and the Proposed Development

2.1 The appeal site is located in the countryside to the south east of Desford and accessed from the east side of Peckleton Lane via a farm access of approximately 300 metres in length. The buildings that are the subject of this appeal form part of a complex of agricultural buildings constructed of a mix of red facing bricks and concrete block-work together with a number of steel framed Dutch barns surrounded by agricultural fields. In addition to the complex of barns, there are four silos, a farmhouse and another dwelling further to the east.

2.2 This application seeks full planning permission for alterations to and the change of use of redundant agricultural buildings to Class B1(c)(Light Industry)/Class B8 (Storage or Distribution) business use. The application relates to 1½ open sided Dutch barns of steel frame structure with corrugated fibre cement sheet curved roofs and a similarly constructed mono-pitch lean to structure between them, together with a smaller building constructed of concrete block-work and corrugated fibre cement sheet walls and similar sheet curved roof. The alterations include the infill of the sides of the Dutch barns with grey concrete blocks, personnel doors and roller shutter doors and the division of the buildings into six separate business units with floor areas ranging from 51 - 170 square metres covering a total of 704 square metres. A Design and Access Statement, Transport Statement and Ecology Report were submitted in support of the application.

3.0 Site History

3.1 There have been a number of planning applications relating to non-agricultural uses of the buildings within the farm complex. In July 1988 planning permission was granted for the change of use of one of the buildings for the storage of fizzy drinks (ref. no. 88/00692/4) and was followed by a further planning permission in May 1989 for an additional storage area for the same use (ref. no. 88/01301/4). In October 1990 planning permission was granted for the continued use of the building for the storage of fizzy drinks (ref. no. 90/01048/4).

3.2 In September 1997 planning permission was granted for the change of use of barns to office and workshop and the creation of a storage area for landscaping materials (ref. no. 97/00635/COU). The permission was renewed by a further planning permission in September 2002 (ref. no. 02/00809/COU).

3.3 Between 2004 and 2006 four planning applications were submitted seeking the change of use of barns to industrial premises (ref. nos. 04/00793/COU, 04/01139/COU, 05/01282/COU and 06/00344/COU). Three of the applications were withdrawn prior to determination. Planning application reference 04/01139/COU was refused planning permission for the following reason:

'The applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development and the proposal, if permitted would consequently result in an unacceptable form of development and could lead to dangers for road users. Visibility splays both to and from emerging/turning vehicles are also restricted to the south contrary to Policies BE1 and T5 of the adopted Hinckley & Bosworth Local Plan.'

3.4 However, in February 2007 retrospective planning permission (ref. no. 06/01172/COU) was granted for alterations to and change of use of 1½ Dutch barns adjacent to those that are the subject of this appeal to industrial premises for Class B2 (General Industry) use, along with proposals for the creation of a new vehicular access to serve the site. The Highway Authority did not object to the retrospective application for the change of use subject to a number of highway related conditions. In this particular case and on balance, the proposed new access was considered to improve access to the site to mitigate any additional traffic generation from the change of use of a small part of the farm complex relating to only approximately 300 square metres of floor space. However, the consultation response to the application from the Highway Authority and the subsequent decision notice included the following note to applicant:

'The development hereby permitted should not be construed as implicit acceptance of any future traffic generating development within the site. The Highway Authority may seek to resist future proposals leading to material increases in turning traffic at this location in the interests of highway safety.'

4.0 Background to the appeal

4.1 The full planning application that is the subject of this appeal was received on 25th February 2010 but was made invalid on receipt as additional information and fees were required to meet national and local requirements for this type of application. The applicant's agent was notified on 2nd March 2010 and following the submission of the required additional information and fee, the application was validated on 30th March 2010. Consultation letters were sent out on 1st, 6th and 22nd April 2010 and a site notice posted at the entrance to the site on 16th April 2010 in accordance with the Council's normal procedures. A copy of the site notice and the responses to the consultation process were submitted with the appeal questionnaire.

4.2 Following receipt of the consultation response from the Highway Authority on 25th May 2010, the application was determined under the delegated powers procedure and refused in a decision notice dated 25th May 2010 for the following reason:

1. The proposal, if permitted, would lead to an increase in vehicle turning movements on an unrestricted (60mph) class III road (C4102) where there is no street lighting, outside the limits of the built up area, where

such movements would not be expected by other road users, would create additional dangers for highway users and would not be in the interests of highway safety. The proposal is, therefore, contrary to the requirements of policies BE20, EMP4 and NE5 of the adopted Hinckley and Bosworth Local Plan and the requirements of the Highway Authority's Guidance: 'Highways, transportation and development' and, therefore, the requirements of policy T5 of the adopted Hinckley and Bosworth Local Plan.

5.0 National Planning Guidance

5.1 Planning Policy Statement 1 'Delivering Sustainable Development' in paragraph 5 states that planning should facilitate and promote sustainable and inclusive patterns of rural development. Paragraph 27 states that planning authorities should seek to bring forward sufficient land in appropriate locations to meet expected need for industrial development taking into account accessibility and sustainable transport needs and provide improved access for all to jobs by ensuring that new development is located where it can be accessed by sustainable transport means rather than reliance on the car while recognising that this may be more difficult in rural areas.

5.2 Planning Policy Statement 4 (PPS4): 'Planning for Sustainable Economic Growth' sets out the governments policies on economic development. Policy EC12 supports the conversion and re-use of existing buildings in the countryside for economic development, particularly those closely related to villages where the benefits out-weight the harm in terms of; the potential impact on the countryside, landscapes and wildlife; local economic and social; needs and the level of accessibility to service centres.

5.3 Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' sets out the government's objectives for rural areas which include the broad aim to promote sustainable rural communities, patterns of development and economic growth and diversification. Accessibility should be a key consideration, and most developments which are likely to generate large numbers of trips should be located in, or next to existing service centres that are accessible by public transport, walking and cycling. Paragraph 17 supports the re-use of appropriately located and suitably constructed existing buildings in the countryside where this would meet sustainable development objectives with a preference given to re-use for economic development purposes. Paragraph 30 recognises that diversification into non-agricultural activities is vital to the continuing viability of many farm enterprises and encourages support for well-conceived farm diversification schemes for business purposes that are consistent in their scale with their rural location.

5.4 Planning Policy Statement 9 (PPS9): 'Biodiversity and Geological Conservation' includes the broad aim that development should have minimal impacts on biodiversity and enhance it where possible.

5.5 Planning Policy Guidance Note 13 (PPG13): 'Transport' sets out national transport planning policy. The objectives of this guidance are to promote more sustainable transport choices, to promote accessibility to jobs by public transport, walking and cycling and to reduce the need to travel, especially by car. Paragraph 6(4) states that local planning authorities should ensure that development comprising of jobs offers a realistic choice of access by public transport, walking and cycling but recognising that this may be less

achievable in rural areas. Paragraphs 6(5) and 41 state that in rural areas development for jobs should be located in or near to local service centres. Paragraph 43 identifies the importance of promoting adequate employment opportunities in rural areas and that diversification of agricultural businesses is increasingly likely to lead to proposals for conversion and re-use of existing farm buildings for other business purposes. Local planning authorities should encourage farm diversification proposals where this enables access by public transport, walking and cycling but be realistic about the availability of alternatives access by car. Similarly they should not reject proposals where small-scale business development would give rise to only modest additional daily movements and the impact on minor roads would not be significant.

6.0 The Development Plan

6.1 Section 54A of the Town and Country Planning Act 1990 requires that planning applications shall be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for the purposes of this application is comprised of the Hinckley & Bosworth Local Development Framework adopted Core Strategy (adopted December 2009) and the saved policies of the Hinckley & Bosworth Local Plan (adopted February 2001). In addition, there are a number of other supplementary policy documents that are relevant to the determination of the application.

6.2 The Hinckley & Bosworth Local Development Framework: Core Strategy was adopted in December 2009. Policy 7: 'Key Rural Centres' seeks to ensure there is a range of employment opportunities within the centres including enhancement of allocated employment sites and development of employment uses within the settlement boundary. Policy 8: 'Key Rural Centres Relating to Leicester' supports additional employment provision in Desford to meet local needs in line with Policy 7. Policy 17: 'Rural Needs' supports small scale developments that meet a clearly identified 'local need' for employment adjacent to the settlement boundary if the need cannot be met within the settlement boundary of the village.

6.3 The Hinckley and Bosworth Local Plan was adopted in February 2001. A number of policies within the plan were 'saved' by direction of the Secretary of State for Communities and Local Government under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004. The appeal site lies outside of the settlement boundary of Desford as defined on the proposals map in the adopted Hinckley and Bosworth Local Plan and therefore in the countryside.

6.3.1 Policy BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should: complement or enhance the character of the surrounding area with regard to scale, layout, mass, design and materials; incorporate design features that minimise energy consumption and minimise the impact of the development on the local environment; incorporate landscaping to a high standard where this would add to the quality of the design and siting; ensure adequate highway visibility for road users and adequate provision for off-street parking together with turning facilities. Development should not: be adversely affected by activities within the vicinity of the site that are likely to cause a nuisance to the occupiers of the proposed development or adversely affect the occupiers of neighbouring properties.

6.3.2 Policy BE20 states that in the countryside planning permission will be granted for the re-use and adaptation of rural buildings unless: the proposed use has an adverse effect on the appearance or character of the landscape; the building is in a structurally unsound condition and is thus incapable of conversion without significant adaptation and rebuilding; the proposals are detrimental to the design, character, appearance and setting of the building; the buildings are located where future occupiers of the development would be adversely affected by noise, smell or other disturbance from a working farm; the proposal would adversely affect highway safety or any protected wildlife habitat; the proposal does not comply with the local planning authorities standards for layout and design and highway criteria; the proposals involve significant areas being utilised for external storage which due to their visual impact cannot be mitigated through appropriate screening and landscaping;.

6.3.3 Policy EMP4 states that planning permission for small scale employment uses in rural areas which meet demonstrable local needs immediately adjacent to settlement boundaries will be granted unless it would be: detrimental to the amenities of adjoining residents; detract from the character and appearance of the environment and countryside; generate traffic likely to exceed the capacity of the highway network or impair road safety or fail to meet appropriate design, layout, highways and parking standards.

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

6.3.5 Policy NE12 requires development to take into account the existing landscaping features of the site and make provision for further landscaping where appropriate.

6.3.6 Policy T5 refers to the application of appropriate standards for highway design and parking targets for new developments unless a different level of provision can be justified.

6.4 The Council's Supplementary Planning Guidance on the Conversion of Rural Buildings was adopted in June 2004. The document states that the re-use and adaptation of existing rural buildings has an important role to play in meeting the needs of rural areas for commercial and industrial purposes: reducing the need for new buildings; avoiding vacant buildings becoming prone to vandalism and dereliction; and providing employment. The guidance gives further detailed advice regarding external and internal building design features, the setting of the buildings, habitat preservation and creation and landscaping.

6.5 Leicestershire County Council document 'Highways, transportation and development' provides guidance on all highway related matters and further

details will be provided in the separate appeal statement to be submitted in respect of this appeal by the Highway Authority.

6.6 Copies of the relevant policies of the adopted Local Development Framework; Core Strategy and adopted Hinckley and Bosworth Local Plan together with the adopted Supplementary Planning Guidance document on the Conversion of Rural Buildings have been submitted with the appeal questionnaire.

7.0 The Local Planning Authority's Case

7.1 National planning guidance in Planning Policy Statement 1, Planning Policy Statement 4, Planning Policy Statement 7 and Planning Policy Guidance Note 13 provides general support for the conversion and re-use of appropriately located and suitably constructed existing buildings in the countryside for economic development purposes where this would meet sustainable development objectives and particularly where the development offers a realistic choice of access by public transport, walking and cycling. This general support is subject to additional material planning considerations including impact on the character and appearance of the countryside, local economic and social needs, accessibility and highway safety, neighbouring properties and biodiversity etc. This general stance is echoed within saved policies BE20, EMP4 and NE5 of the adopted Hinckley and Bosworth Local Plan and the Council's Supplementary Planning Guidance on the Conversion of Rural Buildings.

7.2 Notwithstanding general policy support, the criteria within saved policies BE20, EMP4, NE5 and T5 of the adopted Hinckley and Bosworth Local Plan and highway design guidance contained in Leicestershire County Council document 'Highways, transportation and development' also seek to ensure that new developments do not generate traffic on a scale that is likely to exceed the capacity of the highway network or impair road safety, or fail to meet appropriate highway design and layout standards.

7.3 Consideration and assessment of the principle of development and its impact on the character and appearance of the buildings and surrounding countryside, highway issues, neighbouring residential properties and ecology is provided in further detail in the case officer's delegated report, a copy of which was submitted with the appeal questionnaire. This concluded that:

'The principle of the re-use and adaptation of these existing rural buildings is generally acceptable, particularly as it relates to economic development purposes. It is considered that, subject to the use of more appropriate external materials there would be no adverse impact on the character or appearance of the existing buildings, their setting or the surrounding countryside. The proposals would not have an adverse effect on residential amenity. However, the Highway Authority has recommended that the application be refused as, if permitted, it would lead to an increase in vehicle turning movements which would be detrimental to highway safety and therefore the application is recommended for refusal on those grounds.'

7.4 The site is located in the countryside to the south east of the village of Desford and a considerable distance outside of the settlement boundary as defined on the proposals map of the adopted Hinckley and Bosworth Local Plan. The site is accessed off a rural, class III road which is subject to unrestricted traffic speeds. The fields surrounding the site are in agricultural

operation (although not currently by the applicant) and access can be gained by farming machinery from Peckleton Lane and, therefore, contribute to turning traffic off Peckleton Lane. Retrospective planning permission for the change of use of approximately 300 square metres of floor space within the farm complex has already been granted for a single commercial unit in Class B2 (General Industry) use which contributes additional turning traffic off Peckleton Lane. The planning application that is the subject of this appeal proposes the change of use of an additional 700 square metres of floor space for Class B1(c)(Light Industry) and Class B8 (Storage or Distribution) use divided into six additional commercial units. This would increase the commercial floor space within the site to approximately 1000 square metres and increase the number of commercial units from one to seven. In addition, within the Design and Access Statement submitted in support of the application there is a clearly stated intention to further extend commercial uses within the site to include approximately 400 square metres of additional floor space in the future.

7.5 In view of the current operations on the site and the significant increase in commercial floor space proposed by the appeal application the Leicestershire County Council, Director of Environment and Transport (Highways) planning application consultation response recommended refusal of the application on the grounds that, if permitted, the proposed development would lead to an increase in vehicle turning movements on an unrestricted (60mph) class III road (C4102) where there is no street lighting, outside the limits of the built up area, where such movements would not be expected by other road users, would create additional dangers for highway users and would not be in the interests of highway safety.

7.6 Further detailed evidence to justify the reason for refusal and comments on the appellant's grounds of appeal will be submitted in a separate appeal statement by Leicestershire County Council as the Highway Authority.

8.0 Conclusions

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission and appeals to be determined in accordance with the Development Plan unless material considerations indicate otherwise. There are no material considerations in this case which indicate that the appeal proposal should be considered otherwise than in accordance with the Development Plan.

8.2 Policy BE20: 'Re-Use and Adaptation of Rural Buildings' of the adopted Hinckley and Bosworth Local Plan states that: 'in the countryside planning permission will be granted for the re-use and adaptation of rural buildings unless: (f) the proposal would adversely affect highway safety and (h) the proposal does not comply with the local planning authorities standards for layout and design and highway criteria.'

8.3 Policy EMP4: 'Employment Development on Sites Other Than Those Allocated For Employment Purposes' of the adopted Hinckley and Bosworth Local Plan states that: 'planning permission for small-scale employment uses within settlement boundaries, and in rural areas which meet demonstrable local employment needs immediately adjacent to settlement boundaries, will be granted unless the proposed development would: (e) generate traffic likely to exceed the capacity of the highway network or impair road safety.'

8.4 Policy NE5: ‘Development in the Countryside’ of the adopted Hinckley and Bosworth Local Plan states that: ‘planning permission will be granted for built and other forms of development in the countryside provided that the development is (b) for the change of use, re-use or extension of existing buildings and only where the proposed development will not generate traffic likely to exceed the capacity of the highway network or impair road safety.’

8.5 Policy T5: ‘Highway Design and Vehicle Parking Standards’ of the adopted Hinckley and Bosworth Local Plan and highway design guidance contained within Leicestershire County Council's document 'Highways, transportation and development' require compliance with highway layout and design standards.

8.6 In consideration of these policy criteria and the contents of this appeal statement and the separate appeal statement provided by the Leicestershire County Council as Highway Authority in respect of the issues relating to highway safety, the local planning authority respectfully requests that the Inspector dismiss the appeal in accordance with the reason for refusal. However, if the Inspector is minded to allow the appeal and grant full planning permission for the proposed development, the local planning authority request that consideration be given to the imposition of the conditions contained in the accompanying Schedule of Suggested Conditions Document along with consideration of any additional conditions suggested in the separate appeal statement submitted by the Highway Authority.