HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEALS UNDER SECTION 78

Hinckley & Bosworth Borough Council

STATEMENT ON BEHALF OF HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEALS BY MR MARK KETCHER

AGAINST THE REFUSALS OF PLANNING PERMISSION

FOR EXTENSIONS AND ALTERATIONS TO REMODEL EXISTING DWELLING INCLUDING A NEW BRICK OUTER SKIN AT

WHITE GATE FARM, MYTHE LANE, WITHERLEY CV9 3NU

HBBC REFERENCES 08/00995/FUL and 09/00202/FUL

THE PLANNING INSPECTORATE REFERENCES APP/K2420/A/09/2106426/WF and APP/K2420/A/09/2106429/WF

AUGUST 2009

Contents:

Section 1: Introduction

Section 2: Planning History

Section 3: National Government Guidance and Development Plan Policies

Section 4: The Local Planning Authority's Case

Section 5: Comments on Grounds of Appeal

Section 6: Conclusions

Appendix A: Suggested Conditions

Section 1: Introduction

1.1 This statement is a written submission in support of the decisions by Hinckley and Bosworth Borough Council to refuse planning permission for extensions and alterations to remodel the dwelling known as White Gate Farm, Mythe Lane, Witherley Leicestershire (Planning Application reference numbers 09/00043/FUL and 09/00202/FUL). It should be read in conjunction with the information previously supplied as attachments to the Appeal Questionnaires.

1.2 The property known as White Gate Farm is a detached two storey farmhouse with red brick walls and tiled roof to the east side of Mythe Lane, Witherley. It is located between the settlements of Witherley and Ratcliffe Culey and outside of any established settlement boundary in the countryside, it is accessed by a track and is slightly elevated from the level of the highway carriageway, it is surrounded by fields. The dwelling is modest in scale and simple in design. It is set back approximately 140 metres from the highway, there are a range of single storey outbuildings and other farm buildings within the farm complex. The property is a farmhouse and does not have any formal garden area laid out. The surrounding area consists of agricultural fields with isolated farms and dwellings.

1.3 The applications that are the subject of these appeals seek to remodel the existing dwelling through extensions and alterations. However, the applications were refused as it was considered that the extent of works proposed were tantamount to a new dwelling being created in the countryside contrary to development plan policies relating to protection of the countryside.

1.4 Where appropriate, the appeals have been referred to as Appeal A (APP/K2420/A/09/2106426/WF) and Appeal B (APP/K2420/A/09/2106429/WF).

Section 2: Site History

2.1 The planning application (reference No 71/2426/17 (3998/1971)) for the demolition of the existing farmhouse and the erection of a farmhouse was approved on 8 September 1971. This planning permission contains an agricultural occupancy condition which states that ‘the Local Planning Authority would not normally grant planning permission for residential development. This permission is therefore granted only because of special agricultural need and the premises should accordingly only be occupied by persons connected with agriculture’.

2.2 A planning application (reference No 08/00718/FUL) for a new access was withdrawn on 17 September 2008.

2.3 A planning application (reference No. 08/00719/GDO) for the erection of an agricultural building was approved on 20 August 2008.

2.4 A planning application (reference No. 09/00043/FUL) for improvements to the access, new access and landscaping bund was approved on 23 April 2009.

Section 3: National Government Guidance and Development Plan Policies

3.1 Planning Policy Statement 7 – Sustainable Development in Rural Areas – is relevant in considering these appeals, as it states that consideration should be given to the potential impact on the countryside, landscape and wildlife, together with accessibility to settlements.

3.2 The Development Plan for the purposes of these appeals is the adopted Hinckley and Bosworth Local Plan (adopted February 2001). The Council's Supplementary Planning Guidance on House Extensions, that was subject to public consultation between October 1995 and January 1996 and was adopted by the Borough Council in 1996, is also a material consideration that should be afforded some weight.

3.2 Policy BE1 of the adopted Hinckley and Bosworth Local Plan – Design and Siting of Development – states that the Borough Council will seek to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Planning permission will be granted where the development complements or enhances the character of the surrounding area with regard to scale, layout, mass, design and architectural features. The notes accompanying this policy further state that the Local Planning Authority will seek to ensure that all new development is in keeping with the character of the locality in which it is situated. The detailed design of buildings and their inter-relationship with existing development is particularly important.

3.3 Policy RES10 of the adopted Hinckley and Bosworth Local Plan – Replacement Dwellings – states that planning permission for replacement dwellings in the countryside will initially be considered in terms of the countryside policies of the plan. Where the Borough Council is satisfied that there is special justification for the development of a replacement dwelling, it will only be permitted where: (a) it is of a similar size and scale to that of the original dwelling, and (b) it is built on a similar footprint.

3.4 Policy NE5 of the adopted Hinckley and Bosworth Local Plan states that the countryside will be protected for its own sake. However, planning permission will be granted provided that the development is an extension of an existing building and that it does not have an adverse effect on the appearance or character of the landscape, it is in keeping with the scale and character of the existing buildings and general surroundings and where necessary it is effectively screened by landscaping or other methods.

3.5 Policy T5 of the adopted Hinckley and Bosworth Local Plan requires new development to achieve the relevant highway standards and vehicle requirements contained within the County Council's highway design guidance.

3.6 The Council's Supplementary Planning Guidance on House Extensions states that an extension should respect the scale and character of the existing dwelling and street-scene, should not overwhelm the existing house or neighbouring properties and must be subordinate in size to the existing house to ensure that it will be in visual harmony.

3.7 Full copies of the relevant local development plan policies and explanatory text together with the Council's adopted Supplementary Planning Guidance on House Extensions have been included in the Appeal Questionnaire.

Section 4: The Local Planning Authority's Case

4.1 The appeal site is located away from the highway in an area where there are isolated dwellings and farms outside of any established settlement boundary and is therefore in the countryside as designated in the adopted Hinckley and Bosworth Local Plan. There are open fields and rolling countryside surrounding the site. The settlement of Witherley is situated to the south and the settlement of Ratcliffe Culey is situated to the north.

4.2 Appeal A (APP/K2420/A/09/2106426/WF)

The first application for extensions and alterations proposed the provision of a large imposing gable to the front elevation with a balcony at first floor level, together with a two storey rear extension, incorporation of part of the adjoining out building to domestic rooms and garage. This proposal also included a brick plinth and the re-facing over the remnants of the existing brickwork to be retained but did not involve the removal of the roof. Due to the concerns with the original scheme, amended plans were submitted which removed the balcony. But in terms of design, it was still felt that the proposal did not address the issues raised fully and would create a dwelling which might be found in Hinckley or other towns in the Borough. It did not reflect the form and detail of other traditional farmhouses in the area although it incorporated the adjacent former single storey farm building and would be read as a farmhouse. Farmhouses tend to be of a simple plan form with simple often plain elevations. They avoid features such as projecting gables, bargeboards, large conservatories and gablets. They also tend to have regular window arrangements. Although the front balcony had been omitted, there had been no progress on simplifying other elements. The design appeared to be driven by the requirements of the applicant without taking into account the impact it will have on the surrounding environment.

In the opinion of the Local Planning Authority, it is considered that given the extent of the demolition and the design of the extensions and alterations this proposal constituted the development of a replacement dwelling in a countryside location rather than merely an extension and alteration to remodel the existing dwelling. No structural information was submitted with the application which either confirmed that the structure was capable of such remodelling or, justified the need for a replacement dwelling. Proposals for replacement dwellings in the countryside without special justification are contrary to Policy NE5 of the adopted Hinckley and Bosworth Local Plan which seek to protect the character and appearance of the countryside and limit new residential development to that which is appropriate to sustain a healthy rural economy, for example development which can be shown to be for the operational requirements of agriculture or forestry. An agricultural restriction was placed on the dwelling when it was granted planning permission to be replaced in 1971, no justification in terms of Annex1 of PPS7 had been submitted with this application. The Local

Planning Authority was concerned that the approval of such a proposal could set a precedent and make it difficult to resist similar proposals for 'remodelling' of other rural dwellings in future.

The land proposed to be used as curtilage to the extended farmhouse was at the time of consideration of the application, a field and did not appear to have ever been used as garden. When checking the original curtilage approved with the 1971 application, an additional area to the front of the dwelling has been included within this application site. The impact of allowing the proposed area of countryside to become garden would have a negative impact in an area where the countryside is protected for its own sake.

4.3 Appeal B (APP/K2420/A/09/2106429/WF)

The second application proposed a scheme where the original plans submitted with the application showed that the overall roof height was proposed to be raised from 8.6 metres to 9.7 metres, this was unacceptable, and amended plans were submitted which showed that the overall height of the roof would be raised by only 0.15 metres, this is because the eaves height was to be altered. The agent had confirmed that this was necessary in order to incorporate lintels above the existing doors where none existed at present. The application proposed a new roof with a small increase in the roof height, the change in height was not considered to have any significant greater impact on the countryside. In terms of the countryside, the increased size of dwelling would have some increased impact, more than with the existing situation.

The amended plans showed the proposed plinth removed and the gables proposed to the front of the dwelling separated and more uniform in size. In line with advice given, the windows to the front elevation have been simplified and given vertical emphasis. This design was considered to be acceptable in that it is more in keeping with traditional and simple Leicestershire farmhouses.

The existing vehicular access and adequate parking is available within the curtilage of the site.

The concern in terms of previous proposals had been directed towards the design rather than the size of the proposed extensions and to ensure that the proposals were truly extensions rather than tantamount to a new dwelling in the countryside. Again, no structural information was submitted with the application which either confirmed that the structure was capable of such remodelling or, justified the need for a replacement dwelling. This application included removal of the roof and the re-skinning of retained brickwork to provide a cavity wall construction so the dwelling would have the appearance of a new dwelling.

When appraising the amount of new build, and the extent of the fabric of the original building to be retained with this application, it was also considered that the application could not be supported as it did not address the previous refusal in terms of constituting a new dwelling in the countryside and

would therefore be contrary to the aims of policies NE5 and RES10 together with Government PPS7.

Prior to determination of this application, the agent submitted photographs showing the poor condition of the brickwork and roof trusses. This only gave weight to the local planning authority concerns that the scheme was a replacement dwelling in the countryside and therefore it was not considered that the small amount of the dwelling proposed to be retained was sufficient.

4.4 In the opinion of the Local Planning Authority, there is ample opportunity to consider alternative solutions that would represent true extensions and alterations to the existing dwelling. An amended proposal involving more modest alterations and extensions as well as retention of more of the fabric of the existing dwelling might be considered more favourably by the Local Planning Authority. Otherwise, if the applicant considers that the dwelling is structurally unsound and incapable of being converted or renovated to provide acceptable living conditions. Documentary evidence would need to be provided to prove the case that a replacement agricultural dwelling is justified in accordance adopted policy, together with a fresh planning application described appropriately.

Section 5: Comments on Grounds of Appeal

5.1 The grounds for appeal are that the proposals conform in all respects with development plan policy NE5.

5.2 In terms of both appeals, the Local Planning Authority considers that both proposals fail to meet the requirements of the policy in that, they result in a building tantamount to a new dwelling in the countryside. Evidence has not been provided that the structure is capable of such adaptations and it is considered that the amount of the original fabric to be retained after development is insufficient for the proposals to be considered as ‘extensions and alterations’. The existing dwelling has an agricultural occupancy tie and would not have been granted planning permission if the need had not been established at that time.

5.3 In terms of Appeal A, in addition to the above, the design is considered to be unacceptable and therefore is also considered to have an impact upon the character and appearance of the surrounding countryside area which is contrary to policy BE1 of the adopted Hinckley and Bosworth Local Plan, in addition, the principle of creating a (new) replacement dwelling in the countryside without special justification is a determining factor.

5.4 The agent has submitted with the appeals a drawings (198/00/SK01 and 198/00/02) which is intended to illustrate the amount of the existing fabric to be retained, the new build and existing fabric

to be removed. However, it is not considered that this drawing is of little assistance. For example, on the rear elevation, it shows approximately two thirds of the elevation retained, the proposals for this elevation are for a two storey extension so this part of the building will be 'new build' with only the left–hand 'third' being the original fabric and, in any case, the whole of the remaining fabric is proposed to be concealed by a outer brick skin. The roof will require removal in its entirety in order to raise the eaves height.

5.5 In the opinion of the Local Planning Authority, the appellant has failed to provide details of any other special circumstances or relevant material considerations in the grounds of appeal to justify the proposals.

Section 6: Conclusions

6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permissions and appeals to be determined in accordance with the Development Plans for the area unless material considerations indicate otherwise. The current proposals are considered to be contrary to Policies BE1, NE5 and RES10 of the adopted Hinckley and Bosworth Local Plan in that they constitute a replacement dwelling without special justification that would have an adverse impact on the visual amenities and character of this countryside location. Approval of such a proposal would set a precedent for future applications of a similar nature within the Borough to which the Local Planning Authority would also object but would subsequently be difficult to resist.

4.5 The proposals also fail to comply with Policy RES10 of the adopted Hinckley and Bosworth Local Plan in that no evidence has been submitted with the application to suggest that there is special justification for the development of a replacement dwelling.

6.2 There are no other material considerations that indicate that the appeal proposals should be determined otherwise than in accordance with the adopted Development Plans and Supplementary Planning Guidance. On the basis of the information contained in this written statement and to previous information attached to the Appeal Questionnaires the Local Planning Authority respectfully requests that the appeals be dismissed.

6.3 If the Inspector were minded to approve either/both of the appeals and granted planning permission for the proposed development, the Local Planning Authority would request the inclusion of the conditions itemised in Appendix A.

Appendix A: Conditions

Suggested Conditions, if the appeal(s) are allowed.

1. The development hereby permitted shall be begun within 3 years from the date of this permission.

Reason: To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Before any development commences, representative samples of the types and colours of the materials to be used on the external elevations of the proposed extensions and alterations shall be deposited with and approved in writing by the Local Planning Authority and the scheme shall be implemented in accordance with the approved materials.

Reason: To ensure that the development has a satisfactory external appearance to accord with policy RES7 of the adopted Hinckley and Bosworth Local Plan.

3. This consent relates to extensions and alterations to remodel the existing dwelling as submitted in the approved plans and in no way gives consent for demolition and rebuilding of the existing dwelling. Before development commences, full details of the method by which the existing structure is to be supported and retained whilst the extensions and alterations hereby approved are constructed shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be incorporated into the development hereby permitted.

Reason: To define the permission and for the avoidance of doubt.

4. Bats, nesting birds, great crested newts and certain other species are protected by law. A watching brief should be conducted whilst the demolition/construction works are being carried out. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.

Reason: To ensure that any potential adverse impact on protected species is minimised to accord with Planning Policy Statement 9 (Biodiversity and Geological Conservation).