

HINCKLEY AND BOSWORTH BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990



**Hinckley & Bosworth
Borough Council**

**STATEMENT OF CASE ON BEHALF OF THE LOCAL PLANNING
AUTHORITY**

PLANNING APPEAL BY MR MEE

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE VARIATION
OF CONDITION 3 ATTACHED TO PLANNING PERMISSION 16/00640/FUL. TO
ALLOW PERMITTED DEVELOPMENT RIGHTS TO BE REINSTATED.**

AT:

**BARTON HILL FIELDS FARM, MAIN STREET, BARTON IN THE BEANS,
LEICESTERSHIRE**

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE:
24/00757/CONDIT**

**THE PLANNING INSPECTORATE REFERENCE:
APP/K2420/W/25/3365553**

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1.0 SECTION 1: INTRODUCTION

- 1.1 This statement outlines Hinckley and Bosworth Borough Council's statement of case in relation to the appeal against the refusal of planning permission for an application under Section 73 of the Town and Country Planning Act 1990 to remove a planning condition from an earlier grant of planning permission.
- 1.2 The application was refused by Hinckley and Bosworth Borough Council under delegated authority on 12th November 2024. This statement is in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission.
- 1.3 Please see Appendix 1 (the Officer Report) for the site description, application description, site history, relevant policies and the Council's case, all of which have already been set out in the Officer Report and shall not be repeated here for brevity.

2.0 SECTION 2: THE CASE FOR THE LOCAL PLANNING AUTHORITY

- 2.1 In preparing this statement the Council have reviewed the Appellant's Grounds of Appeal. The following section comments specifically on these items, expanding upon the Council's full case contained in Appendix 1.
- 2.2 In paragraph 6 (d) of the Appellant's statement, it is stated that

"The council's objection to the removal of Condition 3 relates solely to the equestrian occupation restriction – it does not suggest that the reinstatement of permitted development rights would cause any other planning harm, such as harming the character and appearance of the log cabin itself, harming the rural character of the area or causing harm to neighbours' living conditions."
- 2.3 This is inaccurate, as the reason for refusal clearly states that the purpose of condition 3 is to ensure that the size and scale appropriate to the proper functioning and needs of the rural enterprise, thus preventing any unacceptable impact on the character and appearance of the area.
- 2.4 Paragraph 6 (h) asserts that

"The officer's report for 16/00640/FUL does not justify (or even mention) the withdrawal of permitted development rights and Condition 3 is not listed as one of the recommended conditions at the end of the report."
- 2.5 The officer report for 16/00640/FUL was uploaded in a draft format to the LPAs website in error. This draft was then checked by the Case Officer's Team Leader, who requested the inclusion of Condition 3 with the reason: *"To ensure the dwelling remains of a size and scale appropriate to the proper functioning and needs of the rural enterprise in accordance with Policy DM5 of the Site Allocations and Development Management Policies DPD."*
- 2.6 The LPA maintains that the condition reason provides clear justification for why the condition was added originally and should remain in perpetuity.
- 2.7 Paragraph 6 (j) of the Appellant's statement suggests that *"Permitted development rights allow minor changes to permanent dwellings to suit the needs of homeowners. Extensions that are greater in scale or impact typically require full planning permission."*

- 2.8 Paragraph 6 (o) states *“In any case, permitted development rights are specifically designed so that they are limited in size, scale and impact. In other words, they are unlikely to allow development that would be disproportionate to the business or the site. The regulations in the GPDO place limits on the size, siting and design of householder alterations - for example, extensions to dwellings are generally limited to a single-storey and must usually be at the rear of the property*
- 2.9 Furthermore, paragraph 6 (p) states *“In this case, site circumstances already limit the permitted development rights available to the appellant. The roof is not tall enough to be converted, for example, and the curtilage of the site limits the extent to which the house can be extended.”*
- 2.10 The dwelling in its current form is detached, and measures approximately 13.6m in length, 6.1m in width (a footprint of approximately 82sqm), with an eaves height of 2.3m and a ridge height of 3.2m. Utilising Permitted Development Rights, under Part 1, Class A, the Appellant could erect a single storey rear extension of up to 4m projection from the rear elevation, spanning the width of the dwelling (6.1m). This would create a total footprint of approximately 25 sqm, which would be an addition to the existing footprint of the dwelling of approximately 30%. Through the prior approval process, the Appellant could apply for a single storey rear extension projection up to 8m, with a total footprint of approximately 49 sqm, an addition of approximately 59% to the existing footprint of the dwelling. Given the remoteness of the dwelling from neighbouring dwellings, prior approval would be unlikely to be required, and therefore it is realistic that a larger home extension could be constructed in this scenario. Separately the appellant could construct a single storey side extension to the south with a width less than half the width of the original dwelling this could be 3m in width with a depth of 13.6m, with a total footprint of 40smq, an addition of approximately 48%. The curtilage is of sufficient size that such extensions could be accommodated under permitted development and in culmination would more than double the footprint of the dwelling.
- 2.11 Therefore, contrary to the Appellants Statement at Paragraphs 6 (j), 6 (o) and 6 (p) permitted development rights in this case could allow for substantial extensions in comparison to the footprint of the existing dwelling.
- 2.12 Whilst the LPA maintains that a full planning application for an extension with an appropriate scale and design may be acceptable, the removal of permitted development rights would risk enabling extensions which would result in a significant increase in the scale and massing of the existing dwelling. This would be at odds with Policy DM5 (Enabling Rural Worker Accommodation) of the SADMP which aims to protect the intrinsic value, beauty and open character of the countryside by safeguarding it from inappropriate development by ensuring that isolated dwellings, including by ensuring that rural workers accommodation meets the special circumstances outlined in the policy.
- 2.13 Paragraph (k) of the Appellant’s statement suggests that *“the condition does not meet the test in the NPPF that it be ‘relevant to the development being proposed’. The development being proposed was making permanent an existing dwelling. Limited, hypothetical, future, small-scale alterations to that dwelling were not relevant to the council’s considerations.”*
- 2.14 The relevance of condition 3, as pertaining to paragraph 57 of the NPPF, is considered by the LPA to meet the six tests. The condition is relevant as it relates to the presence of a dwelling in the countryside where SADMP Policy DM5 clearly states that the aim of the policy is to *“protect its intrinsic value, beauty, and open character, the*

countryside will first and foremost be safeguarded from inappropriate development” and that “The proposed dwelling is of a size and scale appropriate to the proper functioning and needs of the rural enterprise”. The supporting text explains the justification for ensuring that a rural workers dwelling is of an appropriate size and scale at paragraph 13.22:

“In order to prevent dwellings which are unusually large or expensive in relation to the functional need of the rural enterprise, any new dwelling permitted under this policy will be restricted in size and scale appropriate to the requirements of the enterprise to properly function. It is important to note that it is the needs of the enterprise to function properly which informs the size and scale of the dwelling and not the needs of the worker”.

- 2.15 The rural worker dwelling is an isolated dwelling in the countryside, approved under the criteria of DM5 as a temporary dwelling (10/00920/FUL). When the dwelling was approved as a permanent dwelling (16/00640/FUL), this was accompanied by a suite of evidence to justify its permanent siting in this location and was duly assessed against all relevant policies (including DM5) afresh. As assessment was therefore made that the dwelling at its current size was of a size and scale appropriate to the rural enterprise. To ensure that any this remains the case, Permitted Development Rights were removed to ensure that the LPA can assess extensions to ensure that the proportionality between the function and the size of the enterprise and the associated dwelling is aligned.
- 2.16 Paragraph l) of the Appellant’s statement states that the Council *“does not explain why it considers that the exercise of permitted development rights would necessarily make the house disproportionate to the business and holding”*. Without a full application, the LPA would receive no justification for any proposed extension built under permitted development rights. It is not for the LPA to set out what it considers the appropriate size of dwelling relevant to the business. The onus is on the Applicant to provide evidence and justification for any proposed increase in the scale of the dwelling and why it would be necessary as part of the operation of the livery business associated with the dwelling.
- 2.17 Paragraph t) of the Appellant’s statement refers to a planning application 21/00587/FUL which permitted a permanent agricultural worker’s dwelling on a different site in Barton in the Beans. Each application is considered on its own merits, and in this case the officer concluded that permitted development rights did not require removal. Officers note that the site relating to 21/00587/FUL is bound by two sides by existing development (north and south) and does not have a public right of way adjacent to the site, as is the case with the appeal site (footpath S80), which runs directly along the northern boundary less than 10m distance from the existing dwelling. Additionally, the specific requirements of the enterprise as part of 21/00587/FUL and the appeal case are unique.
- 2.18 When assessing the Appellants dwelling under application 16/00640/FUL the Council consulted Reading Agricultural Consultants (RAC). In their report, which included expert assessment of the business accounts and scale of the proposal, the Council’s advisor stated in paragraph 4.09:

“The enterprise is sustainable but at a modest level. The cost of the log cabin and stabling has already been absorbed, but it is doubtful that the enterprise would, at present, be able sustain the cost of a conventional dwelling, or off-site accommodation, were it available.”

- 2.19 The Council has received no further evidence to prove that the enterprise is sustainable at a level different to what was originally approved under 16/00640/FUL. Therefore, the reinstatement of permitted development rights, which would potentially allow for significant extension under Class A of the GPDO, is not considered acceptable in this case.
- 2.20 Paragraphs u) to z) of the Appellant's statement refers to three separate appeal decisions in different parts of the country where permitted development rights were not removed for appeals relating to rural workers' dwellings.
- 2.21 The LPA maintains that each application should be assessed on its own individual merits. For agricultural worker dwellings, the justification is intrinsically linked to the economic sustainability and needs of a specific rural enterprise such that comparisons cannot be made between the needs of different enterprises. Were the Councils in question satisfied that an enterprise was sufficiently financially viable that they could support extensions under Permitted Development, then it is reasonable that such rights may not be removed. However, in this case, given the advice of RAC in the initial application, it is clear that the enterprise was sustainable at a modest level and the enterprise may therefore not support extensions. No evidence has been submitted that supports that the enterprise can sustain the costs of the extensions. Reinstating such rights could result in inappropriate development in the countryside, contrary to Policy DM5 of the SADMP.
- 2.22 Furthermore, the Council refers to an appeal decision in Harborough District (APP/F2415/D/19/3243883) (Appendix 3) which related to a 2-storey front, side and rear extension. The appeal was dismissed on the basis that there was insufficient justification for the extension based on proportionality to the need of the agricultural business. The Council maintains that the refused application and appeal before us is comparable because there is insufficient evidence to demonstrate that the extensions to the dwelling that could be implemented under GPDO would be proportionate to the needs of the agricultural enterprise. Whilst the policies in question clearly differ, their intent is the same and the appeal sets out the interplay between development plan policies which seek to ensure development in the countryside is sustainable and that the needs of a rural enterprise do need to be considered for further extensions to ensure that development is appropriate and sustainable for the enterprise in question and to ensure that unfettered development does not impact on the character and appearance of the area.

3.0 SECTION 3: CONCLUSION

- 3.1 In conclusion, the LPA considers that there is clear justification to restrict national permitted development rights for the appeal site in accordance with paragraph 55 of the NPPF. The condition passes the six tests, and the condition ensures that the size and scale of the dwelling remains appropriate to the proper functioning and needs of the rural enterprise, thus preventing any unacceptable impact on the character and appearance of the area in accordance with Policy DM5 of the SADMP and Paragraph 84 of the NPPF.
- 3.2 For the reasons above, the LPA respectfully requests that the appeal is dismissed.