HINCKLEY AND BOSWORTH BOROUGH COUNCIL

APPEAL STATEMENT

Hinckley & Bosworth Borough Council

APPEAL BY MR CHRISTOPHER HARBOT AGAINST THE REFUSAL OF FULL PLANNING PERMISSION FOR THE ERECTION OF A DWELLING ON LAND REAR OF 132-136 MAIN STREET, MARKFIELD, LEICESTERSHIRE LE67 9UX

HBBC REFERENCE 10/00799/FUL

THE PLANNING INSPECTORATE REFERENCE APP/K2420/A/11/2150169/WF

MAY 2011 - WRITTEN REPRESENTATIONS

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Appendices:-

1. Calculation of Play and Open Space Contribution
2. Pre-application Response Letter (ref. 10/10043/PREAPP)

1.0 Introduction

1.1 This statement of case should be read in conjunction with the information sent with the appeal questionnaire to support the decision of Hinckley and Bosworth Borough Council to refuse full planning permission for the erection of a dwelling on land to the rear of 132–136 Main Street, Markfield, Leicestershire LE67 9UX.

2.0 The Appeal Site and the Proposed Development

2.1 The appeal site is located within the settlement boundary of Markfield as defined in the adopted Hinckley and Bosworth Local Plan, to the east of Main Street and to the rear of 132-138 Main Street and 2a and 1 Park Avenue. The site is accessed via an unmade single track private drive between 136 and 138 Main Street. The main area of the site measures approximately 210 square metres (273 square metres including the access drive) and is roughly rectangular in shape. There are two storey residential properties to the west and north, residential curtilage to the east and an area of public open space to the south of the site. The ground level falls generally from west to east and there is a mix of brick and blockwork garden walls, shiplap timber fencing and hedgerows enclosing the perimeter of the site. The site is currently occupied by a single storey building of timber construction with pitched roof design used in connection with commercial uses on the site, including a joinery workshop and external storage of builders' materials.

2.2 The application seeks full planning permission for the erection of a single storey dwelling, utilising and upgrading the existing access. The proposed two bedroom dwelling has a rectangular footprint measuring 7.6 metres in width x 8.6 metres in depth. It has a gable fronted design with steeply pitched roof with an eaves height of 2.643 metres and a ridge height of 6.668 metres and accommodation within the roof space. The principle windows are located in the north and south elevations. The layout of the site indicates off street car manoeuvring and parking for two cars on the submitted plans to the fore of the proposed dwelling and a small private amenity area to the rear measuring approximately 38 square metres.

3.0 Site History

3.1 The site has been subject to a previous planning application for the erection of a chalet bungalow and garage in December 2001 (application reference 01/01208/FUL). The application was refused on 31 January 2002 for the following reason:-

'The proposal would result in a contrived form of overdevelopment of a restricted site located behind existing frontage properties, out of character with the surrounding area and also detrimental to the amenities and privacy of adjoining residents contrary to policy BE1 of the adopted Hinckley and Bosworth Local Plan.'

3.2 Temporary planning permissions have been granted on the site since 1959 for the retention of a joinery workshop and since 1990 for the workshop and external storage of builders' materials. The most recent consent (application reference 05/00399/TEMP) was permitted on 26 May 2005 and expired on 24th June 2010.

4.0 Background to the appeal

4.1 The planning application that is the subject of this appeal was submitted on 6 October 2010 but was invalid on receipt. The applicant's agent was notified and following the receipt of additional information to comply with national and local requirements for this type of application, the application was validated on 2 December 2010. Standard consultation letters, including neighbours were sent out on 8 December 2010, a site notice was posted on 21 December 2010 and two further neighbours were consulted on 22 December 2010 in accordance with the Council's normal procedures. The responses to the consultation process were submitted with the appeal questionnaire. The application was assessed against the Council's adopted planning policies and guidance and refused in a decision notice dated 27 January 2011 for the following reasons:

1. The proposal would result in a contrived form of development of a restricted site located behind existing frontage properties, to the detriment of the character of the surrounding area and contrary to the guidance contained in Planning Policy Statement 3: Housing, Policy BE1 of the Adopted Hinckley and Bosworth Local Plan and the Adopted Supplementary Planning Guidance on New Dwellings.

2. The proposal by virtue of its scale, mass and siting would be to the detriment of the amenities and privacy of future occupiers and adjoining residents (nos. 134 and 136 Main Street and no. 1 Park Road), contrary to the requirements of Policy BE1 of the Adopted Hinckley and Bosworth Local Plan and the Adopted Supplementary Planning Guidance on New Dwellings.

3. In the opinion of the local planning authority, the lack of any definitive measures to address the increase in pressure placed on play and open space facilities of the local area by the proposed development would not accord with Circular 5/05, Policies REC3 and IMP1 of the Adopted Hinckley and Bosworth Local Plan, and the Borough Council's Supplementary Planning Document on Play and Open Space.

As the appellant has pointed out in his grounds of appeal, the second reason for refusal on the decision notice contains a typing error and should refer to no 134 and not to no. 144.

5.0 National Planning Guidance

5.1 Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' in paragraph 5 states that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development. Paragraph 27 states that planning authorities should seek to bring forward sufficient land in appropriate locations to meet expected need for housing etc. and promote the more efficient use of land.

5.2 Planning Policy Statement 3 (PPS3): 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives. It was revised in June 2010. Paragraph 10 seeks to ensure the delivery of high quality housing that is well designed and built to a high standard, that housing developments are in suitable locations, which offer a good range of

community facilities, with good access to jobs, key services and infrastructure. Paragraph 12 states that good design is fundamental to the development of high quality new housing. Paragraph 13 states that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area should not be accepted. Paragraph 16 outlines matters to consider when assessing design quality and includes the extent to which the proposed development: is well laid out so that all the space is used efficiently, is safe, accessible and user friendly; provides good access to community green and open amenity and recreational space (including play space) as well as private outdoor space such as residential gardens; is well integrated with and compliments, the neighbouring buildings and the local area more generally in terms of scale, density, layout and access. Paragraph 17 emphasises the importance of taking into account the needs of children and that there is a good provision of recreational areas, including private gardens, play areas and informal play spaces which should be well designed, safe, secure and stimulating. Paragraph 40 states that local planning authorities should continue to make effective use of land by re-using land that has been previously developed. However, paragraph 41 advises that there is no presumption that land that has been previously developed is necessarily suitable for housing development. Paragraph 49 states that careful attention to design is particularly important where intensification of the existing urban fabric is involved. Successful intensification need not mean low quality accommodation with inappropriate space. Paragraph 69 states that in deciding planning applications, local planning authorities should have regard to achieving high quality housing; the suitability of a site for housing and using land effectively and efficiently.

6.0 The Development Plan

6.1 The East Midlands Regional Plan (adopted March 2009) provides the development strategy for the East Midlands up to 2026. The decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010. Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies. The government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS`s letter of 27 May 2010 and that it should still be regarded as a material consideration. Judgement was given on a second challenge by Cala Homes when the Court held that the SoS`s intention to reform the planning system by removing regional strategic planning from it is to be taken into account as a material consideration. In relation to the weight to be given to that intention as a material consideration the Court held that `the weight to be given to relevant provisions of Regional Strategies pending the legislative process will be for decision-makers to gauge. Until the end of that process is reached Regional Strategies will remain in place as part of the development plan.

6.2 The Development Plan for the purposes of this application is therefore comprised of the East Midlands Regional Plan (adopted March 2009), the Hinckley & Bosworth Local Development Framework adopted Core Strategy

(adopted December 2009), 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.

6.3 The East Midlands Regional Plan was adopted in March 2009.

6.3.1 Policy 2: 'Promoting Better Design' requires, amongst other things, the layout and design of new development to make the most efficient use of land, to maintain amenity and privacy and to benefit the quality of life of local people.

6.3.2 Policy 3 directs development towards urban areas with priority being given to making the best use of previously developed land.

6.3.3 Policy 43 seeks to improve safety across the region and reduce congestion.

6.4 The Hinckley & Bosworth Local Development Framework: Core Strategy was adopted in December 2009.

6.4.1 Policy 8: 'Key Rural Centres Relating to Leicester' states that to support the local services in Markfield and ensure local people have access to a range of housing the council will allocate land for the development of a minimum of 80 new homes and that developers will be required to demonstrate that the number, type and mix of housing proposed will meet the needs of Markfield. Policy 8 also seeks to address existing deficiencies in the quality, quantity and accessibility of green space and play provision in Markfield.

6.4.2 Policy 24: 'Sustainable Design and Technology' expects residential developments in Key Rural Centres (which includes Markfield) to meet the sustainability targets set out in 'Building a Greener Future'.

6.5 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 within the settlement boundary of Markfield as defined on the proposals map of the adopted Hinckley and Bosworth Local Plan.

6.5.1 Policy BE1: '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 for development proposals will be granted where they: complement or enhance the character of the surrounding area with regard to scale, density, mass, design, materials and architectural details; have regard to the safety and security of both individuals and property; ensure that there is adequate highway visibility for road users and adequate provision for on and off street parking for residents and visitors and manoeuvring facilities; and do not adversely affect the amenities of neighbouring properties.

6.5.2 Policy RES5: 'Residential Proposals on Unallocated Sites' states that on sites that are not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within a settlement boundary and the siting, design and layout of the proposal do not conflict with the relevant plan policies.

6.5.3 Policy T5: ‘Highway Design and Vehicle Parking Standards’ 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.

6.5.4 Policy IMP1: ‘Contributions Towards the Provision of Infrastructure and Facilities’ states that planning permission will be granted for residential and other forms of development where the developer provides contributions towards the provision of infrastructure and facilities to serve the development commensurate with the scale and nature of the development proposed.

6.5.5 Policy REC3: ‘New Residential Development – Outdoor Play Space for Children’ requires the appropriate level of open space to be provided within development sites of between 1 - 20 dwellings or, alternatively, a financial contribution to be negotiated towards the provision of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

6.6 Leicestershire County Council's document 'Highways, Transportation and Development' provides highway design guidance to developers.

6.7 The Borough Council’s Supplementary Planning Guidance for New Residential Development provides further guidance for developers on density, design, layout, space between buildings and landscaping/boundary treatments along with highways and parking. The main aims of the guidance are to ensure that new developments are well integrated into their surroundings, offer a good standard of amenity to future residents, protect the amenities of existing occupiers and are locally distinctive in their appearance. Development proposals which constitute backland development should have sufficient road frontage for safe and convenient access and should not have a detrimental impact on the amenities and privacy enjoyed by the occupiers of adjoining property. Where a window of a habitable room faces the blank wall of an adjacent dwelling the Authority will expect a minimum separation distance between dwellings of 12 metres for single storey dwellings or 14 metres for a house with 2 or more storeys unless material considerations indicate otherwise. Rear gardens should normally be a minimum of 12.5 metres in depth. To ensure that all new dwellings have adequate private amenity space, the Authority will expect 2 bedroom dwellings to be provided with 60 square metres of private amenity space and 3 bedroom dwellings with 80 square metres of private amenity space unless material considerations indicate otherwise. The overall size of the garden should be in proportion with the type of dwelling and the general character of the area.

6.8 The Borough Council’s Play and Open Space Guide Supplementary Planning Document (2008) provides further guidance to developers in respect of the different types of open space, and the level of financial contributions required for the provision and future maintenance of those open spaces.

6.9 Copies of the relevant policies of the Local Development Framework and Hinckley and Bosworth Local Plan together with other supplementary documents have been submitted with the appeal questionnaire.

7.0 The Local Planning Authority's Case

7.1 The site is located within the settlement boundary of Markfield as defined on the adopted Hinckley and Bosworth Local Plan proposals map.

Reason for Refusal 1

7.2.1 Notwithstanding the location of the site within the settlement boundary this is a small, roughly rectangular shaped, restricted and enclosed site with no frontage to either Main Street or Park Avenue. The established pattern of surrounding development in the immediate locality is that of residential dwellings which form frontage development and this is considered to be the defining character in the locality. The proposed dwelling constitutes backland development, which has no proper road frontage to either Main Street or Park Avenue and would therefore result in development that is clearly out of keeping with the character of the area. Due to the restricted nature of the site the proposed dwelling will extend very close to the sites east and west boundaries and the layout will provide very limited outdoor private amenity space, the area forward of the proposed dwelling being dominated by the parking and turning areas. Notwithstanding the comments of the appellant in the grounds of appeal that the planning authority should not presume to know better than the prospective occupiers, the quality of the design and layout of the proposed development including the provision of private amenity space is and remains a material consideration in the determination of new residential development and applications should only be approved where acceptable standards are achieved unless there are other mitigating reasons for accepting reduced standards. There are no other mitigating reasons in this case and the proposal is considered to represent an overdevelopment of the site.

7.2.2 Whilst the appeal site lies within the settlement boundary of Markfield and is previously developed land, paragraph 41 of Planning Policy Statement 3: Housing (PPS3) advises that there is no presumption that land that has been previously developed is necessarily suitable for housing development and paragraph 49 states that careful attention to design is particularly important where intensification of the existing urban fabric is involved, successful intensification need not mean low quality accommodation with inappropriate space. In the opinion of the local planning authority the proposed development fails to meet the requirements of PPS3 in respect of both housing quality and space standards..

7.2.3 Whilst the proposed dwelling is described as single storey, the design features rooms within the roof space. The quality of the design of the proposal is considered to be poor and features an uncharacteristic and dominant roof mass which does not complement or enhance the character of the surrounding area with regard to its scale, mass, design or architectural details.

7.2.4 The appellant, in the grounds of appeal, refers to two other examples (nos. 156 and 186 Main Street) of dwellings to the rear of properties fronting on Main Street. Both of the properties referred to occupy significantly larger and less restricted plots and are set back from, but offset from, the adjacent properties rather than being located fully to their rear. It is therefore considered that these cases do not provide similar comparisons to the appeal proposal. In addition, both of these dwellings pre-date the adoption of the

Council's Supplementary Planning Guidance on New Residential Development and current adopted policies 'saved' by direction in the Local Plan and those adopted in the Core Strategy.

7.2.5 Therefore, in the opinion of the local planning authority, as a result of the constraints of the site and the design and layout of the proposed scheme, it would result in a contrived form of development of a restricted site located behind existing frontage properties to the detriment of the character of the surrounding area and is consequently considered to be contrary to the guidance contained in Planning Policy Statement 3, the requirements of 'saved' policy BE1 of the adopted Hinckley and Bosworth Local Plan and to Supplementary Planning Guidance advice for New Residential Development outlined in paragraphs 5.2, 6.5.1 and 6.7 of this statement respectively.

Reason for Refusal 2

7.3.1 Whilst the proposed dwelling is described as single storey, the design features a steeply pitched and dominant roof mass with a ridge height of almost 6.7 metres and rooms within the roof space. The restricted nature of the site and its relationship to the habitable room windows of nos. 134 and 136 Main Street which face directly towards the proposed dwelling mitigates against achieving a scheme which would adequately protect the amenities of the occupiers of these dwellings from the overbearing impact that the proposed dwelling would create contrary to Supplementary Planning Guidance advice and adopted policies designed to protect neighbours amenities.

7.3.2 In addition, the restricted nature of the site and its relationship to nos. 134 and 136 Main Street and no. 1 Park Avenue which face directly towards the proposed dwelling mitigates against achieving a scheme which would adequately protect the amenities of the future occupiers of the proposed dwelling from overlooking and loss of privacy contrary to Supplementary Planning Guidance advice and adopted policies designed to protect residential amenity.

7.3.3 Therefore, in the opinion of the local planning authority, by virtue of its scale, mass and siting the proposal would be to the detriment of the amenities and privacy of future occupiers and adjoining residents (nos. 134 and 136 Main Street and no. 1 Park Road), and is consequently considered to be contrary to the requirements of 'saved' policy BE1 of the adopted Hinckley and Bosworth Local Plan and to the Supplementary Planning Guidance advice for New Residential Development outlined in paragraphs 6.5.1 and 6.7 of this statement respectively.

Reason for Refusal 3

7.4.1 Government Guidance in Circular 5/05 and saved policies IMP1 and REC3 of the Hinckley and Bosworth Local Plan together with the Borough Council's Play and Open Space Guide Supplementary Planning Document (2008) refer to developer contributions towards the provision and maintenance of public play and open space infrastructure and facilities to serve new developments commensurate with the scale and nature of the development proposed in order to mitigate the impact of that development and provide a framework for calculation of those contributions (see Appendix 1).

7.4.2 No legal agreement pursuant to Section 106 of the Town & Country Planning Act 1990 or other method of securing an appropriate developer contribution towards the provision and maintenance of public play and open space facilities was submitted with the application to mitigate the impact of the development on such facilities. As a result, this forms an additional reason for refusal.

7.4.3 The appellant states in the grounds of appeal that no contribution was requested at the time of the application. Consistent with the previous refusal of planning permission for a dwelling on the site in 2002 and the pre-application response to the appeal proposal dated 16 April 2010 (see Appendix 2), as the application was to be recommended for refusal and in order to avoid abortive work and costs in providing a satisfactory legal agreement, the contribution was not pursued at the time of the application. It is noted, however, that should the appeal be successful, that the appellant would be willing to contribute to the provision and maintenance of off-site public play and open space facilities within the vicinity of the site and would accept a condition requiring such contribution.

Other Material Considerations

7.5 Whilst the existing joinery workshop and builders yard may not be considered to be totally compatible with a primarily residential area, this use has occurred for a considerable number of years on a low key basis and by reason of renewable temporary planning permissions. There are only two records of complaint regarding operations from the site and they date from the early 1990's. If consistent complaints occurred the temporary permission would no doubt fail to be renewed.

7.6 Policy 8 of the adopted Hinckley & Bosworth Local Development Framework Core Strategy allocates a minimum of 80 new dwellings for the settlement of Markfield. Since adoption of the Core Strategy, outline planning permission for residential development has been approved (reference 09/01009/OUT) following a successful appeal on a site off London Road, Markfield that could provide in excess of the minimum allocation, therefore, additional sites to provide for new residential development within Markfield are unnecessary.

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 In consideration of the contents of this statement and the information supplied with the appeal questionnaire, the local planning authority respectfully requests that the Inspector dismiss the appeal in accordance with reasons for refusal 1, 2 and 3. 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 Suggested Conditions Document.