

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990



**Hinckley & Bosworth
Borough Council**

WRITTEN STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY

PLANNING APPEAL BY MR LEE SMITH

**AGAINST THE REFUSAL OF PRIOR APPROVAL FOR THE CHANGE OF USE
OF AN AGRICULTURAL BARN TO A SINGLE DWELLING**

AT

HEATH FARM, BOSWORTH LANE, OSBASTON, LEICESTERSHIRE

HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE

25/00496/P3CQ

THE PLANNING INSPECTORATE REFERENCE

APPEAL 6003428

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1. INTRODUCTION

- 1.1. This statement is to be read in conjunction with the previously submitted Appeal Questionnaire papers, in full support of the decision of Hinckley and Bosworth Borough Council to refuse prior approval for the change of use of an agricultural barn to a single dwelling at Heath Farm, Bosworth Lane, Osbaston.

2. DESCRIPTION OF THE APPEAL SITE AND THE PROPOSAL

The Appeal Site

- 2.1. The appeal site is located outside of any identified settlement boundary within the designated open countryside. The site forms part of Heath Farm which is located approximately 500 metres west of the settlement boundary of Newbold Version.
- 2.2. The appeal site contains a steel portal framed building located alongside a cluster of existing buildings, open areas to the north and west of that building, and an extended area of internal access driveway comprising a portion of existing surfaced driveway and a section of unsurfaced farm track.
- 2.3. The appeal building appears square in shape but has slightly rectangular dimensions of 14.035 metres by 13.84 metres. The lower walls of the appeal building are of concrete construction with upper walls clad in corrugated cement fibre sheeting. Its immediate surrounds comprise an existing area of hard standing and overgrown grassed areas.
- 2.4. The appeal site sits within the wider Heath Farm site. The wider Heath Farm site contains the original farmhouse and original farm complex buildings since subdivided and converted to create separate dwellings, both of which are located adjacent to the appeal building. Beyond these buildings the wider Heath Farm site contains a later farmhouse bungalow. To the north-west of the appeal site is an elongated cluster of agricultural buildings associated with farming operations at Heath Farm.
- 2.5. The appeal site and wider Heath Farm site are accessed from Bosworth Lane to the south. Bosworth Lane is an adopted and classified 'B' road subject to a speed limit of 60mph at the point of access.
- 2.6. Public Right of Way (PRoW) Footpath S19 passes to the east and north-east of the appeal site and is also met by Bridleway S18 to the north-east of the appeal building.
- 2.7. The appeal site is directly neighboured to the south and west by dwellings within the cluster of original Heath Farm buildings. To the north-west are the agricultural buildings forming part of Heath Farm. To the east and beyond the aforementioned buildings in all other directions, the site is surrounded by fields within the designated open countryside.

The Appeal Proposal

- 2.8. This appeal proposal relates to prior notification under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of an agricultural barn to a dwellinghouse at Heath Farm, Bosworth Lane, Osbaston.
- 2.9. To facilitate this development, the scheme involves the removal and replacement of all corrugated cement fibre sheet cladding to the upper walls and the roof due to the presence of asbestos. It also involves removal of the existing large steel barn-style doors and the removal of concrete skirting walls on the north-western and north-eastern elevations to accommodate a recessed entrance, an external doorway and a large section of external bi-fold doors.
- 2.10. The appeal proposal would result in a dwellinghouse with living space on the ground floor and within the first floor loft space comprising four bedrooms, four bathrooms and one separate W.C., three living rooms including a cinema room and a snug within an open-plan kitchen, living and dining area, three roof terraces, three dressing rooms, a utility room and plant room.

3. SITE HISTORY

3.1. 07/00922/FUL

- Change of use of two agricultural buildings to form stables and a store, the creation of a manege and an area of grazing (personal use)
- Planning Permission
- 08.10.2007

3.2. 08/00280/CONDIT

- Variation of Condition 2 of planning permission 07/00922/FUL change of use of two agricultural buildings to form stables and a store, the creation of a manege and an area of grazing (personal use)
- Planning Permission
- 20.05.2008

It is noted that documentation and plans submitted for these proposals identified the appeal building as being a storage building outside of agricultural use. Though the manege was never constructed, a letter sent from HBBC officers relating to the required discharge of conditions due to commencement of development confirms that other elements of this permission did proceed.

4. POLICIES

- 4.1 Town and County Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class Q (as operational prior to 21 May 2024)
- 4.2 National Planning Policy Framework (NPPF) (2024)
- 4.3 Planning Practice Guidance (PPG)

5. THE CASE FOR THE LOCAL PLANNING AUTHORITY

5.1 The application was refused by Hinckley and Bosworth Borough Council on 11 July 2025 under delegated powers for the following reasons:

1. The Applicant has provided insufficient information to demonstrate that the site was used solely for an agricultural use as part of an established agricultural unit on the relevant dates and as such it has not been possible to determine whether the proposal complies with the limitations of Paragraph Q.1(a) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).
2. The Applicant has failed to demonstrate that the proposal benefits from permitted development rights and that the proposal represents a conversion of a structure rather than a rebuild. Based on the submitted details, the Applicant has failed to demonstrate that the existing building can be appropriately converted into a residential use. Consequently, it is the opinion of the Local Planning Authority that the works required to alter the structure into a residential use would be of such magnitude that they would go beyond what might sensibly or reasonably be described as a conversion. Therefore, the proposal does not comply with the limitations of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).
3. The proposed partial demolition works to the existing structure are not reasonably necessary building operations for the building to function as a dwellinghouse. Therefore, the proposal does not comply with the limitations of Paragraph Q.1(i)(i) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).
4. The proposed design of the north-west elevation does not respect the rural vernacular and simplistic design of the original building and would result in a design and external appearance of the dwellinghouse that would harm the character of the surrounding countryside. Therefore, the proposal does not comply with the limitations of Paragraph Q.2(f) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).
5. The proposed dwellinghouse would not provide adequate natural light to all habitable rooms. Therefore, the proposal does not comply with the limitations of Paragraph Q.2(g) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).

5.2 It is considered therefore that the main issues in relation to this appeal are the sufficiency of information to demonstrate agricultural use within the relevant dates, the extent of demolition to the existing structure of the building and extent to which

the proposal would represent a rebuild rather than a conversion, the resulting design and materiality of the dwelling, and the impact to the amenity of future occupiers of the proposal by way of access to adequate natural light.

Determination of the Appeal Proposal

5.3 Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (GPDO) relates to development consisting of:

- (a) *A change of use of:*
 - (i) *A building that is part of an established agricultural unit and any land within that building's curtilage; or*
 - (ii) *A former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage.*
- (b) *Development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a); or*
- (c) *Development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building.*

5.4 The Town and Country Planning (General Permitted Development) Order 2015 (GPDO) was amended on 21 May 2024 to broaden the range of buildings that could be converted to dwellings, allow extensions to the buildings, and to increase the total number of dwellings from 5 to 10. However, the revisions to the GPDO removed the right to create any dwelling with a floorspace of over 150 square metres and the eligibility of any building that does not have suitable existing access to a public highway.

5.5 An application received by a Local Planning Authority prior to 20 May 2025 could elect to be assessed either under the amended GPDO or under the previous iteration as it stood prior to 21 May 2024.

5.6 The Applicant submitted the appeal application on 16 May 2025 and requested that the proposal be assessed under permitted development rights as they stood prior to 21 May 2024

Agricultural Use of the Building

5.7 Paragraph Q.1(a) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024) states as follows:

Q.1 *Development is not permitted by Class Q if –*

- (a) *the site was not used solely for an agricultural use as part of an established agricultural unit*
 - (i) *on 20th March 2013, or*
 - (ii) *in the case of a building which was in use before that date but was not in use on that date, when it was last time in use, or*
 - (iii) *in the case of a site which was brought into use after 20th March 2013, for a period of at least 10 years before the date development under Class Q begins.*
- 5.8 As noted in Section 4 and Paragraph 8.15 under Q.1(a) of the Delegated Officer Report, the appeal building formed part of two previous planning permissions 07/00922/FUL and 08/00280/CONDIT which involved the removal of the appeal building from agricultural use to be used for storage ancillary to a residential use instead. Condition 4 of 07/00922/FUL required that the appeal building not be used for agricultural purposes following the implementation of the permission.
- 5.9 The application to vary 07/00922/FUL, 08/00280/CONDIT varied Condition 2 of the approval to associate the benefit of the permission to the occupant of the neighbouring dwelling, that dwelling having been established through a previous barn conversion, suggesting that the ownership and use of the appeal building had by that time separated from the wider agricultural use on the site.
- 5.10 The Local Planning Authority acknowledge that the manege that formed part of the abovementioned permissions was not constructed. Notwithstanding this, the associated car parking area was established and is evident in aerial imagery of the site. Furthermore, a letter from the Local Planning Authority dated 7 February 2008 regarding 07/00922/FUL sought the discharge of relevant conditions from the Applicant, given that the proposal had commenced. This further suggests that elements of the proposal were actively put into use.
- 5.11 As stated in Paragraph 8.15 under Q.1(a) of the Delegated Officer Report, the photos included in the Planning Statement and Structural Appraisal Report demonstrated storage within the building and the items pictures did not particularly distinguish themselves as being agricultural or as being different from the type of ancillary storage permitted by 07/00922/FUL.
- 5.12 Section 2 of the Appellant's Statement suggests that the aerial photography provided in Appendix A of their Statement demonstrates clear and consistent pattern of agricultural use for the building from 1999 until 2020. Notably, the Appellant contends that this external aerial photography demonstrates that the building stored agricultural equipment for the duration of this timeframe.
- 5.13 The Local Planning Authority does not dispute the agricultural use of the building between 1999 and 2006. This was accepted through the description and assessment of 07/00922/FUL. The aerial photography provided by the Appellant also demonstrates during 1999 and 2006 the appeal building having no separate field access to the remainder of the agricultural buildings on the site, which at that point

notably included the western barn later converted for residential purposes, and in 2006 in particular shows the grazing of livestock freely between those same buildings.

- 5.14 Section 2 of the Appellant's Statement contends that photographs from 2015 and 2018 show vehicle tracks linking the barn to the surrounding fields. It then further claims that the 2020 photograph demonstrates that overgrowth around the appeal building has been removed, thereby being consistent with continued agricultural use and management rather than abandonment.
- 5.15 The Local Planning Authority notes that the vehicle track which is being relied upon by the Appellant to prove agricultural use is shown by the aerial photographs to have been established between 2006 and 2015 to the north-east of the appeal building. It provides separate access to the track serving the remainder of the agricultural buildings on the site which are accessed from the south-west. The vehicle track referenced by the Appellant also evidently travels to meet a parking area closer to a building located to the north-west of the appeal building. This parking area is the car park permitted by 07/00922/FUL to be associated with the stables building, for private domestic use only, and both related to the appeal building's use for related ancillary storage.
- 5.16 The Local Planning Authority reject the suggestion by the Appellant that the 2020 aerial photo in particular proves a clearing of overgrowth or that the clearance of overgrowth in and of itself proves the continued use of a building or its specific agricultural use. Notwithstanding this, it is noted that the site was visibly overgrown when the site was inspected by the Planning Officer on 2 July 2025 as part of assessment of the appeal application.
- 5.17 It is therefore considered by the Local Planning Authority that sufficient evidence has still not been provided to address the likelihood that the appeal building changed in use through the 2007 and 2008 permissions. As per Paragraph 8.15 of the Delegated Officer Report, it is considered there remains reasonable doubt as to whether the appeal site was used solely for agricultural purposes as part of an established agricultural unit on the relevant dates prescribed by Q.1(a).

Conversion of the Existing Building

- 5.18 Class Q of Part 3 of Schedule 3 of the Town and Country Planning (General Permitted Development) Order 2015 relates to:

Q. Development consisting of -

- (a) *A change of use of -*
- (i) *A building that is part of an established agricultural unit and any land within that building's curtilage; or*
 - (ii) *A former agricultural building that was (but is no longer) part of an established agricultural unit and any land within that building's curtilage.*

- (b) *Development referred to in sub-paragraph (a) together with the extension of the building referred to in sub-paragraph (a); or*
 - (c) *Development referred to in sub-paragraph (a) together with building operations reasonably necessary to convert the building referred to in sub-paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule or to extend that building.*
- 5.19 The Planning Practice Guidance (PPG) refers to the High Court in *Hibbit v Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council* [2016] EWHC 2852 ('Hibbit') and clarification the case provides on the interpretation of the word "conversion" as it pertains to Class Q. Paragraph 27 of Hibbit confirms that a "conversion" is conceptually different to a "rebuild". Consequently, Paragraph 105 of the National Planning Policy Guidance confirms that the permitted development rights within Class Q only apply where, "The existing building is already suitable for conversion to residential use."
- 5.20 Paragraphs 8.3 through 8.10 of the Delegated Officer Report outline the Local Planning Authority's concerns regarding the loss of original building fabric involved in the development. It is noted that this section informed Reason for Refusal 2 and was specifically an assessment of whether the proposal could meet the definition of conversion as required for a proposal to be permitted development under Class Q of Part 3, notwithstanding the relationship between these considerations and requirement Q.1(i) regarding reasonably necessary building works.
- 5.21 Section 3 of the Appellant's Statement notes that the existing building retains its overall footprint, height, form and structural frame. The Appellant contends that this means no demolition and reconstruction of the building is proposed and that the works involved are limited to those typically associated with a Class Q conversion. The Appellant also refers to the structural report which confirmed that the main steel frame and existing concrete panels were to be retained, with improvements limited to the façade and roof in the form of internal timber infill and external over-cladding.
- 5.22 The Local Planning Authority considers that this description from the Appellant misrepresents the retention of the existing lower concrete walls, which are only to be retained in part which large sections removed on both the north-western and north-eastern elevations of the building. This removal is contemplated further in the following section of this response in light of requirement Q.1(i).
- 5.23 The Local Planning Authority also notes that Section 3 of the Appellant's Statement fails to directly acknowledge that none of the existing roof material or the panel sheeting on the upper section of all existing walls would be retained. The building form is thereafter notably modified by the inset entrance way and the omission to sections of the replacement roof, contributing to an overall extent of works that demonstrate rebuilding of the building as opposed to conversion.

Reasonably Necessary Building Operations

- 5.24 Paragraph Q.1(i) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024) states as follows:

(i) *The development under Class Q(b) would consist of building operations other than –*

(i) *The installation or replacement of –*

(aa) *windows, doors, roofs or exterior walls, or*

(ba) *water, drainage, electricity, gas or other services,*

To the extent reasonably necessary for the building to function as a dwellinghouse; and

(ii) *Partial demolition to the extent reasonably necessary to carry out building operations allowed by Paragraph Q.1(i)(i).*

- 5.25 Paragraph 8.15 under Q.1(i) of the Delegated Officer Report outlines that further to the building works required being considered to go beyond those necessary for conversion, the Local Planning Authority also considered the appeal proposal to involve removal of additional building fabric to go beyond that reasonably necessary for the building to function as a dwellinghouse.

- 5.26 Section 4 of the Appellant's Statement contends that the works are reasonably necessary and include reasonable works including installation of windows, doors, roofs, walls and other minor structural adjustments. The Statement characterises the proposed works as proportionate and reasonably necessary and describes them as:

"All other works relate to the main barn and are strictly confined to the retention of the primary steel frame and concrete panels, with localised internal improvements as confirmed in the structural report by Arcelle Consulting."

- 5.27 Section 4 of the Appellant's Statement also states that the application involves removal of a small outbuilding which was not part of the original barn and states that the Local Planning Authority have not provided evidence that the removal of the outbuilding falls outside of the scope of Q.1(i).

- 5.28 For the absence of doubt, the Local Planning Authority confirm that the determination against Q.1(i) was not based upon the loss of the small outbuilding along the north-eastern elevation.

- 5.29 The Local Planning Authority disagree with the Appellant's characterisation of the remainder of the building operations within Section 4 of the Appellant's Statement. Most notably, the Appellant's Statement in both Section 3 and Section 4 describes the existing concrete panels as "to be retained". This misleadingly omits

acknowledgement of the 6.9 metres on the north-eastern elevation and 5 metres on the north-western elevation of the existing concrete skirt of the building to be removed entirely to facilitate large new openings. The resulting north-west and north-east elevations thereafter retain less than 50% of their original concrete skirt walls.

- 5.30 It is also considered by the Local Planning Authority that descriptions of the proposed works in Sections 3 and 4 of the Appellant's Statement fail to acknowledge the loss of all existing roof fabric and all other wall fabric outside the sections of concrete skirting not elected to be removed.
- 5.31 In assessing whether the proposed building operations were reasonably necessary, the Local Planning Authority had mind to the purpose for the demolition undertaken. On the north-eastern elevation, the removal of existing concrete skirting and areas of replacement wall panelling are to facilitate an 11.4 metre wide section of glazed doorways comprising three individual three to four panel-wide sections of bi-fold doors. This is 6.9 metres in excess of the existing 4.5 metre wide opening on this side of the north-eastern elevation where the large double barn doors are currently located.
- 5.32 On the north-western elevation, the removal of existing concrete skirting and interruptions to areas of replacement wall panelling are to facilitate a 3.55 metre wide and 2.45 metre high recessed entrance area, which is designed to provide a covered porch-style shelter ahead of the proposed enclosed porch. The additional external door to access the plant room on this elevation may well otherwise be of reasonable dimensions, but taken in the full context of the appeal proposal adds to an already significant expanse of external openings requiring the removal of existing building fabric.
- 5.33 The Local Planning Authority acknowledges that conversion of agricultural buildings may often require the replacement of roof materials. Notwithstanding this, the appeal proposal involves building operations that would not replace the roofing in-situ on the north-western roof elevation and would instead create two large openings comprising three roof terraces to serve loft-level bedrooms. The installation of such features is notably not covered in Q.1(i) or in the list of reasonable works included in the Appellant's own Statement.
- 5.34 The Local Planning Authority therefore strongly refutes the claim that the scale of these works and the resulting openings, including the creation of a feature entrance area, represent only those works reasonably necessary to convert the building to a dwellinghouse.

Design and External Appearance of the Building

- 5.35 Paragraph Q.2(1)(f) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024) states as follows:

Q.2(1) *Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to –*

(f) the design or external appearance of the building, and

- 5.36 Section 5 of the Appellant's Statement contends that Q.2(1)(f) is limited to consideration of external dimensions of the building, in particular matters of height, width and length, and any enlargement or extension, rather than matters of style, materials, or aesthetic appearance. The Appellant states in Section 5 of their Statement that:

"Concerns regarding vernacular style or rural character fall outside the scope of Class Q and cannot form a valid reason for refusal."

- 5.37 The Local Planning Authority notes that matters of the external dimensions of the building by way of height, width, length and any enlargement or extension are covered by Q.1(h). These need not be and are interpreted not to be re-visited by Q.2(1) which deals with additional conditions of development for determination by the Local Planning Authority independent to the criteria of Q.1.
- 5.38 The wording of Q.2(1)(f) refers to assessment by the Local Planning Authority of design and external appearance of the building and does not prescribe any limitation to this consideration beyond what its words directly state. Neither is the consideration of design and external appearance limited by interpretation in Q.3 of Class Q, Paragraph X of Part 3 or Article 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024) as a whole.
- 5.39 The claim by the Appellant that concerns regarding vernacular style or rural character fall outside of the scope of Class Q is not considered to have any basis in established practice. By way of general example, the Local Planning Authority notes recent Appeal Decisions APP/J1860/W/24/3353415 and APP/R0660/W/25/3360271 both of which consider Q.2(1)(f) and both of which refer to the nature and form of the resulting external appearance of the building and to impacts upon the character of the building itself and the surrounding area.
- 5.40 Paragraph 23 of APP/J1860/W/24/3353415 considers the harm of proposed fenestration on the resulting design and external appearance of a proposed Class Q dwellinghouse conversion. Paragraph 23 reads as such:

That there may be limited public views of the building does not overcome the harm that would be caused to the character and appearance of the existing building by the introduction of the proposed openings. One side of the building has open views across the field and beyond and, there would be glimpses of the building from some public vantage points, even at a distance. Furthermore, the proposed wall cladding, even if in a dark colour, would not reduce the

number or change the design of the proposed windows. Therefore, this would not overcome the harm caused to the character and appearance of the building. As a result, the building would appear incongruous within its rural setting and harm the character of the surrounding area.

- 5.41 Paragraph 11 of APP/R0660/W/25/3360271 addresses the harm to the utilitarian rural design of agricultural buildings that can be affected by uncharacteristically large openings and the impact this has on the wider setting of the building. Paragraph 11 reads:

I acknowledge that the conversion of any agricultural building to a dwellinghouse is likely to make it appear more domesticated. I also acknowledge that the building currently has large openings; however, these are related to the historic use of the building. Nonetheless, the proposed openings would make the dwellinghouses appear overly domesticated and not in keeping with a barn conversion. In turn, this would make the proposed dwellinghouses appear incongruous when viewed from the road.

- 5.42 It is therefore considered that both appeals clearly demonstrate that the impact of the resulting design of a building on its existing external appearance and setting and the wider character of the surrounding area are considerations to be made under Q.2(1)(f). Furthermore, it is noted that Paragraph 21 of APP/J1860/W/24/3353415 acknowledged to the positive that the proposal therein sought to design the fenestration to avoid a domestic pattern. The Local Planning Authority are of the opinion that the same cannot be said for this appeal proposal.
- 5.43 The Local Planning Authority therefore in the undertaking of regular practice reasonably assessed the design and external appearance of the appeal proposal by way of regular elements included in this consideration including massing, architectural features, materials, the resulting visual appearance of the resulting dwellinghouse and its impact on the immediate and surrounding character. As per Paragraph 8.15 under Q.2(1)(f) of the Delegated Officer Report the resulting design of the dwellinghouse was not considered to respect the rural vernacular of the existing building or to complement the rural setting of the site surrounds.
- 5.44 Section 5 of the Appellant's Statement goes on to claim that the proposed conversion employs materials and design features typical of Class Q conversions. This is attributed to the use of timber cladding on the lower walls and standing seam cladding on upper walls and the roof. The proportion of windows and doors are characterised by the Appellant as functional and proportionate, and the Appellant concludes that the form and identity of the original structure is retained.
- 5.45 The Local Planning Authority strongly disagree with this summation of the proposed works to the appeal building. The existing building is a simple utilitarian rural structure comprising partial-height concrete skirt walls and corrugated metal upper wall and roof cladding. It has a solid gable roof form and has one large barn door opening. The resulting dwellinghouse has horizontal timber cladding at the base of external walls to varying heights with wide-profile interlocking dark panel cladding to the upper

walls and roof. It would include significant areas of wide, glazed openings as well as a recessed entrance area on a previously flat elevation and large cut-out roof areas to accommodate roof terraces.

- 5.46 The most visible elevations of the building are the north-western and north-eastern elevations. The north-eastern elevation would comprise 25 square metres of glazing in the form of an 11.4 metre long section of bifold doors in place of the previously 3.5 metre wide barn door opening. The north-western elevation would comprise a 3.55 metre wide and 2.45 metre high recessed entrance area forming a porch-like approach to the building. The north-western roof elevation would be interrupted by two large exclusions from the previously solid roof form to create two disproportionate and asymmetrical depressions for three roof terraces accessed from loft-level bedrooms with largely glazed elevations.
- 5.47 The Local Planning Authority consider the proposal to introduce markedly domestic features that bear little resemblance to the original elevations and openings of the building or to the typical form of an agricultural building. The proposal thereby undermines the existing rural vernacular of the building and given the extent of rebuilding and comprehensive replacement of external materials results in a dwellinghouse with very little resemblance to the original agricultural building.
- 5.48 The Local Planning Authority consider the siting of the building to be sensitive to the over-domestication of the resulting built form, as its most visible elevations face away from and are enclosed separately from the other residential development on the wider Heath Farm site. Instead, the appeal building is closer located with active agricultural buildings to the north and faces into open fields and toward Public Rights of Way Footpath S19 and Bridleway S18 to the north-east.

Adequate Natural Light

- 5.49 Paragraph Q.2(1)(g) of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024) states as follows:

Q.2(1) *Where the development proposed is development under Class Q(a) together with development under Class Q(b), development is permitted subject to the condition that before beginning the development, the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to –*

(g) the provision of adequate natural light in all habitable rooms of the dwellinghouses,

- 5.50 For the absence of doubt, it is reconfirmed that the Local Planning Authority do not contend that any rooms outside of the cinema room would be without sufficient natural light. As per Paragraph 8.15 under Q.2(1)(g) of the Delegated Officer Report, it is the absence of any natural light to the cinema room upon which Reason for Refusal 5 was based.

- 5.51 Section 6 of the Appellant's Statement states that the cinema room is not a habitable room and therefore that Q.2(1)(g) does not apply to it.
- 5.52 Paragraph 8.15 under Q.2(1)(g) of the Delegated Officer Report clarifies that the cinema room is considered a habitable room based upon the definition of habitable room within Paragraph X of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024). Paragraph X states:
- "habitable rooms" means any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms;*
- 5.53 The Local Planning Authority continue to interpret this definition to include a cinema room, which is functionally a room used for living which is not solely for cooking purposes and is not a bath or toilet facility, a service room, corridor, laundry room, hallway or a utility room. As acknowledged within per Paragraph 8.15 under Q.2(1)(g) of the Delegated Officer Report, there may be a desire for darkness within a cinema room, but this does not exclude it from the definition in Paragraph X and thus the requirements of Q.2(1)(g).
- 5.54 It is noted that Section 6 of the Appellant's Statement directly acknowledges that the cinema room receives no natural light.

Summary

- 5.55 In summary, the Local Planning Authority considers that the extent of original material removed from the appeal building to facilitate the proposal would go beyond that reasonably necessary to convert the building and, furthermore, would constitute a rebuild rather than a conversion. The Local Planning Authority also considers that the Appellant has not proven that the building was not changed in use through planning permissions in 2007 and 2008 that were known to have commenced on site, and therefore have not demonstrated that the building was in agricultural use as part of an agricultural unit on the operative dates.
- 5.56 In light of the above, the appeal proposal is not considered to constitute permitted development under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024).
- 5.57 Further to the above, for the absence of doubt, the Local Planning Authority considers that even were the proposal to constitute permitted development it would require Prior Approval and that Prior Approval should be refused. The resulting design and external appearance of the building is considered to be highly domesticated with limited resemblance on the primary elevations to the original agricultural building and

incongruous with its rural setting. Finally, the resulting dwellinghouse does not provide any natural light to the ground-floor cinema room.

6. CONCLUSION

6.1 To summarise, it is considered that the appeal proposal fails the relevant tests of Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (pre-21 May 2024) on five grounds. Most notably, the Local Planning Authority consider the appeal proposal to fail to meet the definition of Class Q development and thereafter requirements Q.1(a) and Q.1(i) which must be met for development to be permitted. The proposal is therefore not considered to constitute permitted development.

6.2 However, if the Inspector is minded not to do so, the Local Planning Authority requests the inclusion of the following conditions and reasons suggested below.

7. CONDITIONS

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:

- Site Location Plan, Entrance, Drg No. 05 (submitted: 16.05.2025)
- Proposed Floor Plan, Elevation, Section, Block Plan, Drg No. 10 (submitted: 16.05.2025)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. The materials to be used on the external elevations, including doors and windows, shall accord with the submitted application details.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with.

The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of

the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with.

Any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. The development hereby permitted shall not be occupied until such time as a scheme that makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers. The scheme shall be carried out in full accordance with the approved details.

Reason: To ensure that the development makes adequate provision for waste and recycling storage in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018) and Section 46 of the Environmental Protection Act 1990.

6. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Proposed Floor Plan, Elevation, Section, Block Plain, Drg No. 10 (submitted: 16.05.2025). Thereafter the onsite parking (and turning) provision shall be kept available for such uses in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and to enable vehicles to enter and leave the site in a forward direction in the interests of highway safety and in accordance with the National Planning Policy Framework (2024).

7. The development hereby permitted shall not be occupied until such time as the access drive and any turning space has been surfaced with tarmacadam or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway in the interests of general highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).

8. The residential curtilage shall be limited to the red line area as outlined in the Proposed Floor Plan, Elevation, Section, Block Plan, Drg No. 10 (submitted: 16.05.2025).

Reason: To ensure that the development and any domestic use is contained within the agreed residential curtilage, in the interests of character and appearance of the area in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. APPENDICES

- 8.1 (See separate documents)

- 8.2 **Appendix A:** Appeal Decision – Ashfields Farm, Peachley Lane, Lower Broadheath (APP/J1860/W/24/3353415)

- 8.3 **Appendix B:** Appeal Decision – Woodiers Farm, Agden Lane, Agden, Cheshire East (APP/R0660/W/25/3360271)