FINAL APPEAL COMMENT SEPTEMBER 2012
By Mrs Margaret Ashby

HBBC reference 11/00755/FUL
To be read in conjunction with Grounds for Appeal statement and 6 week comment.

Planning Inspectorate reference APP/K2420/A/12/2178944/NWF

Dear sir/madam, I am writing in response to Hinckley and Bosworth Borough Council statement by Ms Eleanor Overton (nee Shaw)

This statement is to support an appeal against the imposition of condition 4,6,and 7 as described in HBBC Statement 1.1 (HBBC statement 9.12) and as on the notice of planning permission dated Dec 15th 2011.

I will refer to paragraphs from Ms Overton's statement to the inspector September 2012 in my discussion.

For Clarity
The buildings mentioned in 1.3 (HBBC statement 9.12) are the buildings that were given planning permission on 15th Dec 2011 have now been erected and are in the position stated grouped together in one area of the land at the edge of one of the fields near the woodland screening.

The permitted buildings mentioned in 1.3 (HBBC statement 9.12) include 4 of the field shelters that were existing and shown on plan 40 in red and on plan 50 shown clear. These have now been moved to their consented location.

The two buildings shown on plan 50 and labelled 'not now requested', are the field shelters on skids that we were advised not to apply for as we were told 'they are mobile and do not need planning permission' by Planning officer Miss Eleanor Shaw (now Overton). Currently these are being used for goats and chickens. One housing young chickens currently, will be used for young goats in the spring. These two mobile goat shelters on skids are currently sited on the field north of the permitted development

and will be moved within that field as needed for the animals. Prior to the planning committee meeting 15.12.11 we were told by planning officer Ms Overton that the condition 4 meant 'move' the shelters to group them together and we have done that. In effect satisfying condition 4 as we were led to believe it was intending us to do.

In 1.3 (HBBC statement 9.12) it is stated that we seek to retain two areas of hardstanding. A condition 8 requiring us to remove a small hard standing has been discharged and the smaller hardstanding removed. The larger hardstanding driveway and parking area was given permission at committee on Dec 15th 2011.

For accuracy
In 2.3 (HBBC statement 9.12) there is an inaccuracy whereby there is a small orchard in the north eastern corner of the field. There are in addition 20 newly planted parkland trees in the field to the east of the permitted development site.

6.4 (HBBC statement 9.12) *'Although additional boundary planting has taken place this is immature and thus the site remains relatively open and is visible from Thornton reservoir from the south:' Ms Overton HBBC Sept 12*
NE5 of the local plan states that 'where necessary, [development should be] 'effectively screened by landscaping or other methods'. I suggest that it is the case that where this policy applies to other developments locally, that those developments screen with new planting as we have done. Nowhere does it say in N5 of the local plan that the planting has to be mature. It is accepted generally that this planting will in time effectively screen the site. I further suggest that where other local sites have screening applied as a condition to conform with N5 they do not also have a 'no temporary structures' condition added to the permission. In ms Overtons (nee Shaw's) report to committee 15.12.11 she stated that:

'the site will be effectively screened and will not have an adverse impact on the character or appearance of the National Forest or the surrounding countryside'

She also stated when discussing the buildings in the ame document that:

'due to the sites screening and the lay of the land, they will not be visually prominent from either Markfield lane or Thornton reservoir'

No one has been willing to define the term 'temporary structures' to us and as it is so vague it could mean a rabbit hutch or a small portable chicken cage. It could be so restricting as to render our agricultural activity impossible. We keep a very small number of farm animals. Currently 3 goats, 5 chickens and 2 sheep in addition to the horses. The small number of animals were used for pet parties in 2012 at clients own homes and for a supply of eggs. 2 goats will have kids in the spring to add to the pet parties animals with surplus to sell/use for our own purposes. We only intend to have animal housing that can be moved by one or two people without the aid of mechanical means within 15 minutes. We would like the flexibility to enjoy our hobby legally providing for the needs of our animals from time to time. And to know that we can not be challenged by individuals seeking to cause mischief. We therefore request that condition 6 be removed

There is an inaccuracy in 6.4 (HBBC statement 9.12) Where Ms Overton states that the buildings to be removed shown in plan 50 *'comprise of a single quarantine stable and mare and foal stable , a single stable and tool/feed store, a hay store and further single stable and 6 field shelters. and the applicant has stated that there is a need for these structures'*

This description is that of the first proposed planning application made in May 2011 and subsequently refused by committee, and which were never built and so do not exist and should not be used as evidence to suggest they need moving or that we will be building them. The later approved plan of 15.12.11 superseded the application for these buildings mentioned above and shown on plan 50. Plan 50 entitled 'ORIGINAL DESIGN REFUSED PERMISSION MAY 2011' was put into the final planning portfolio only to illustrate how our 2nd proposed planning request had been greatly reduced.

The only buildings on plan 50 that remain apart from those included in the planning consent of 15th Dec 12 are those mobile field shelters coloured and labelled in the key of plan 50 as 'not now requested'. The reason they were not now requested was as

stated above because we were told we did not need planning permission for them as they were mobile. These are shown in plan 40 as mobile goat shelters on skids.

It is only these 2 mobile goat shelters that the applicant has stated a need for not the other described non existent buildings.

To recap, the area will be screened fully in the fullness of time and conforms with expectations of the Local plan N5. HBBC's justification for condition 4 was based on the misrepresented information above. This misrepresented information also seems to have been offered as the' rational behind condition 6' which has led officers to assume that we are likely to install the buildings shown on plan 50 should conditions 4 and 6 be removed. I have explained how this is not the case.

Ms Overton suggested in 6.5(HBBC statement 9.12) that *'the existing structures and any additional structures on the land, due to their number siting and appearance would result in additional physical and visual clutter…and contrary to saved policy NE5 of the local plan…'*

Bearing in mind that this statement was made using inaccurate information. The only existing structures are two small mobile field shelters these are #2, so small in number, they are sited grouped with the approved development, their appearance is according to Ms Overtons report to committee 15.12.11

'[made of] material and colouring that will aid their assimilation into the surrounding landscape. Further, due to the sites screening and the lay of the land , they will not be visually prominent from either Markfield lane or Thornton Reservoir. In addition, many of the fields in the surrounding area are used for equestrian activities and thus the provision of field shelters and stables do not appear as alien structures within the wider setting and are not considered to have a detrimentally harmful impact on the character of the countryside or National Forest'

From Ms Overtons own description I would suggest that these field shelters are in accordance with Saved Policy NE5 of the local plan and therefore condition 4 and 6 are not justified and are unreasonable.

On the above basis condition 4 is not needed and unreasonable as all the building in plan 40 and 50 have been removed or never existed except 2 mobile goat shelters on skids. Condition 6 is not needed as the siting of the buildings and their appearance have been approved. The number of mobile 'needed' shelters is 2 and not as officers believed and listed in 6.4 (HBBC statement 9.12) as being 6 additional stables and 6 field shelters.

There is no evidence that we are more likely than any other small landowner to need temporary structures for our animals, in fact we are probably less likely as we are part time hobby farmers and not full time business farmers. We are not in a position to expand our animal family as I work for 4 days and have only limited time to take care of them. The current buildings are all of good quality in good repair and the site is kept neat and tidy and well cared for. I respectfully request therefore that conditions 4 and 6 are unnecessary, were applied thoughtlessly by councillors and will unreasonably deprive us of our permitted agricultural development rights that may affect the welfare of our animals and be should be removed. I also suggest that planning officers have not been able to supply a convincing argument as to why the conditions were first applied. Their arguments in the Sept 2012 document for appeal are contradicting those offered in support of the development at committee 15.12.11 and are based on inaccurate information.

Condition 7

We are appealing this condition on the basis of it being irrelevant and unnecessary and in the interests of clarity and to avoid doubt. We have not applied to use the site for business use so do not consider this condition to be justified. We have no problem with only using the site for personal use as we understand that to use the land for business use would require commercial planning consent. This is not our wish. We take ponies out an absolute maximum of twice a day at weekends (Saturday and Sunday) and it is usually much less than that only once on one day some weekends. Only usually March to October. We consider that the wording could compromise our ability to keep within the terms of the condition.

Condition 7: *'The development hereby permitted shall only be used for personal use and shall not be used in connection with a riding school livery yard or any other business or commercial use.'*

The development in question is stables and a yard. I keep ponies and farm animals for use for a business to take off site to do pony and pet parties. I will be using the development to house the animals that I use for my business. I will therefore be using the development for animals connected with my business. I will not however be using the land to invite customers to. I will not be operating my business on the land. I will be taking animals out in the same way that other horse owners take them to shows, to compete or that donkeys are taken to the beach to work. Highways are aware of our pony party activity with regard to the use of the access.

To keep horses and farm animals I need buildings and a rural location. They need accommodation and I need to comply with all the DEFRA and other regulations for animal welfare. The buildings will be inspected to ensure that I am conforming to animal welfare laws. Thus inadvertently the development (buildings) will be considered an integral part of my pony and pet party activity.

As we have not applied for commercial use of the land nor for livery stables or riding school I would like to suggest that the information re access for commercial use in 6.5 to 6.13 (HBBC statement 9.12) is not relevant to our planning application. We accept that the access may not be suitable in its present form for commercial permission. We are not operating a business on the land. We keep our animals on the land and as Simon Wood, head of planning HBBC stated at committee May 2011 'any business use would be easily monitored'.

In relation to the approved application, no suggestions regarding a business use was made in consultation prior to or at committee 15th 12.11. There were no grounds for assuming we may operate a business on the land. We were always open an honest about our activity. Councillors had this condition put on at the end when I could not offer a response and it had not been brought up at all earlier in the meeting.

In the report to committee by Ms Overton 15th.12.11 stated

'It is not considered that any business operations are taking place on site. Although some of the applicants horses are used for business purposes, as is true for many establishments where horses provide a stream of income, such as when they are used for competition purposes, (for example as show ponies or dressage). Here the horses may be owned privately and kept on the owners land. The animal may then be taken to compete a number of times a week. This situation is considered to be no different.. the animals are simply homed on the land and this is not considered to have any further impacts in terms of land use, than that of any other horse.'

The highways department know about our pony parties and charity work and know that we take ponies out to do parties. They recommended personal use only and they were happy with our activity and did not stipulate a condition be applied.

Ms Overton in her report to committee 15th 12 11 reported ***'The director of Environment and Transport (highways) has commented that they have no objections subject to the site being for private use only. As the site is for private use, no condition is considered necessary to ensure this.*** **'**

The horses are transported by myself only and no customers visit. To avoid any future doubt about our use of the buildings we would therefore request that condition 7 be removed.