

# Public Document Pack

**Bill Cullen** MBA (ISM), BA(Hons) MRTPI  
*Chief Executive*

**Date:** 20 February 2017



Hinckley & Bosworth  
Borough Council

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**To: Members of the Planning Committee**

Mr R Ward (Chairman)	Mr C Ladkin
Mr BE Sutton (Vice-Chairman)	Mr LJP O'Shea
Mr PS Bessant	Mr RB Roberts
Mrs MA Cook	Mrs H Smith
Mrs GAW Cope	Mrs MJ Surtees
Mr WJ Crooks	Miss DM Taylor
Mrs L Hodgkins	Ms BM Witherford
Mr E Hollick	Ms AV Wright
Mrs J Kirby	

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor,

There will be a meeting of the **PLANNING COMMITTEE** in the De Montfort Suite - Hub on **TUESDAY, 28 FEBRUARY 2017 at 6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen  
Democratic Services Officer

**A G E N D A**

1. APOLOGIES AND SUBSTITUTIONS

2. MINUTES (Pages 1 - 2)

To confirm the minutes of the meeting held on 31 January 2017.

3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.

4. DECLARATIONS OF INTEREST

To receive verbally from Members any disclosures which they are required to make in accordance with the Council's Code of Conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the agenda.**

5. QUESTIONS

To hear any questions in accordance with Council Procedure Rule 10.

6. DECISIONS DELEGATED AT PREVIOUS MEETING

The Deputy Chief Executive (Community Direction) to report progress on any decisions delegated at the previous meeting.

7. 16/00270/FUL - NEWHAVEN, 12 WYKIN ROAD, HINCKLEY (Pages 3 - 14)

Application for erection of seven dwellings with associated access.

8. 16/00976/FUL - LAND ADJACENT TO COMFORT FARM, ROGUES LANE, HINCKLEY (Pages 15 - 24)

Application for erection of two day room buildings and the relocation of the site access.

9. 16/01159/HOU - 68 LANGDALE ROAD, HINCKLEY (Pages 25 - 32)

Application for two storey side and single storey rear extension.

10. 16/00441/FUL - CEDAR LAWNS, CHURCH STREET, BURBAGE (Pages 33 - 54)

Application for conversion of offices (B1a) to five flats (C3) including demolition of single storey rear extension, conversion of outbuilding to one dwelling and erection of three new dwellings.

11. 16/00442/LBC - CEDAR LAWNS, CHURCH STREET, BURBAGE (Pages 55 - 64)

Application for listed building consent for the conversion of offices (B1a) to five flats (C3) including demolition of single storey rear extension, conversion of outbuilding to one dwelling.

12. APPEALS PROGRESS (Pages 65 - 68)

Report of the Director (Environment & Planning) attached.

13. MAJOR PROJECTS UPDATE (Pages 69 - 72)

To provide an update on a number of current projects and major schemes.

14. ENFORCEMENT UPDATE (Pages 73 - 80)

To provide an update on the number of active and closed enforcement cases.

15. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

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## HINCKLEY AND BOSWORTH BOROUGH COUNCIL

### PLANNING COMMITTEE

31 JANUARY 2017 AT 6.30 PM

PRESENT: Mr R Ward - Chairman  
Mr BE Sutton – Vice-Chairman  
Mr DC Bill MBE (for Mr WJ Crooks), Mr SL Bray (for Ms BM Witherford),  
Mr MB Cartwright (for Miss DM Taylor), Mrs MA Cook, Mrs GAW Cope, Mrs L Hodgkins,  
Mr E Hollick, Mrs J Kirby, Mr LJP O'Shea, Mr RB Roberts, Mrs H Smith, Mrs MJ Surtees  
and Ms AV Wright

In accordance with Council Procedure Rule 4.4 Councillors Mr K Morrell and Mr SL Rooney were also in attendance.

Officers in attendance: Rebecca Owen, Michael Rice and Nic Thomas

#### 347 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Crooks, Ladkin, Taylor and Witherford, with the following substitutions authorised in accordance with council procedure rule 4:

Councillor Bill for Councillor Crooks  
Councillor Cartwright for Councillor Taylor  
Councillor Bray for Councillor Witherford.

#### 348 MINUTES

On the motion of Councillor Roberts, seconded by Councillor Sutton it was

RESOLVED – the minutes of the meeting held on 3 January be confirmed and signed by the Chairman.

#### 349 DECLARATIONS OF INTEREST

No interests were declared at this stage.

#### 350 DECISIONS DELEGATED AT PREVIOUS MEETING

In relation the decision on application 16/00820/FUL which had been delegated at the previous meeting, it was reported that detailed discussions had taken place with the highway authority who had confirmed the need for S106 contributions to Desford crossroads rather than Dan's Lane. Officers committed to pursue the matter of improvements to Dan's Lane separately, outside of this application. Members welcomed and supported this commitment.

#### 351 16/00925/FUL - 1 BURTON ROAD, TWYXCROSS

Application for erection of one dwelling and garage.

It was moved by Councillor Sutton, seconded by Councillor Surtees and

RESOLVED – planning permission be granted subject to the conditions contained in the officer's report.

352 16/00818/FUL - 4 THE HORSEFAIR, HINCKLEY

Application for conversion, extension and alterations, including part demolition, of buildings to form 27 apartments, associated parking and access.

It was moved by Councillor Hodgkins, seconded by Councillor Cook and

RESOLVED –

- (i) the Head of Planning and Development be granted delegated powers to grant planning permission subject to:
  - a) No further letters of objection raising new and material planning objections being received prior to the expiry of the public consultation period ending 8 February 2017;
  - b) The prior completion of a S106 agreement to secure the following obligations:
    - 1. Affordable housing – six units (four for social rent and two for intermediate housing)
    - 2. Public open space facilities / public realm improvements (£38,548.88)
    - 3. Primary school sector education facilities (£14,034.85)
  - c) The conditions contained within the officer's report.
- (ii) The Head of Planning and Development be granted delegated powers to determine the final detail of planning conditions;
- (iii) The Head of Planning and Development be granted delegated powers to determine the terms of the S106 agreement including trigger points and claw back periods.

353 APPEALS PROGRESS

The committee received an update on progress in relation to appeals. It was moved by Councillor Roberts, seconded by Councillor Sutton and

RESOLVED – the report be noted.

(The Meeting closed at 7.16 pm)

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CHAIRMAN

Planning Committee 28 February 2017  
Report of the Head of Planning and Development

Planning Ref: 16/00270/FUL  
Applicant: Mr C Freeman  
Ward: Hinckley Trinity

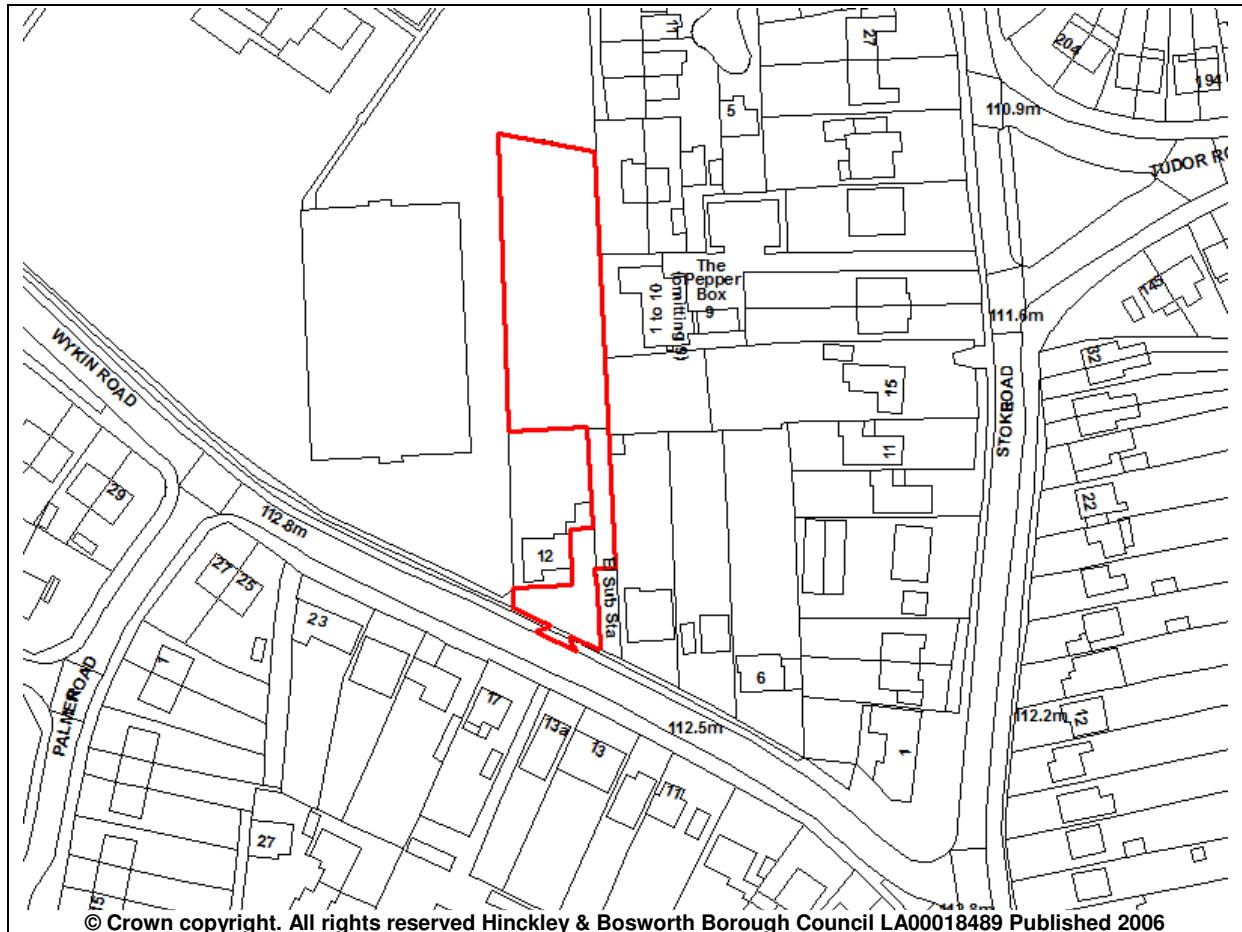


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Site: Newhaven 12 Wykin Road Hinckley

Proposal: Erection of 7 dwellings with associated access



## 1. Recommendations

- 1.1. Refuse planning permission subject to the reasons at the end of this report.

## 2. Planning Application Description

- 2.1. This application seeks planning permission for the demolition of the existing garages and erection of 7 no. dwellings on land to the rear of no. 12 Wykin Road.
- 2.2. An access would be constructed adjoining Wykin Road which would replace the existing access serving no. 12.

## 3. Description of the Site and Surrounding Area

- 3.1. The application site is located within the settlement boundary. The area is characterised by primarily residential development. Wykin Road to the south of the site is bounded by residential development fronting the road comprising a mix of dwelling types and sizes. To the east of the southern end of the site is a sub-station

and a parcel of undeveloped land which has become overgrown, beyond that are dwellings fronting Stoke Road. Immediately adjacent to the east of the northern end of the site are dwellings fronting onto a cul-de-sac; Cadeby Close, and a block of flats set back from the road frontage. To the north of the site is an overgrown area comprising several trees. Adjoining the west of the site is Redmoor Academy with a two storey modular classroom near to the north west corner and a multi-use games area along the majority of the boundary.

- 3.2. The application site comprises two sections; a large parcel of land to the north and a land to the side and front of no.12 Wykin Road. The parcel of land to the north is undeveloped grass land, the exact use is unknown, and a section of the rear garden of no.12 Wykin Road; although the former boundary fence separating the rear garden has been removed. The area is bounded on the northern and western sides by semi-mature and mature trees. The eastern side is bounded by primarily close boarded fencing. The area to the side and front of no.12 includes the access, garages, hard landscaping and front garden of no.12 and is bounded on the eastern side by close boarded fencing.

#### 4. Relevant Planning History

88/00551/4	Demolition of existing bungalow and erection of 4 detached dwellings	Withdrawn	10.07.1988
87/00314/4	Erection of two detached dwellings	Refused Dismissed at appeal	28.04.1987 16.02.1988
86/01268/4	Erection of 3 dwellings off private drive and formation of new access	Refused Dismissed at appeal	24.02.1987 16.02.1987

#### 5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. 29 representations have been received; 11 of support and 17 of objection. The comments are summarised below:

##### Supporting

- 1) The development would be beneficial to the area

##### Objecting

- 1) Two applications and an appeal have been refused for less development
- 2) There would be an adverse impact on the amenity of nos. 10 and 12
- 3) Multiple bins would be stored at the front of the site as the road wont be adopted
- 4) There is no space for service and visitor parking on the site
- 5) Additional on-street parking will cause visibility concerns
- 6) Wykin Road is subject to high vehicle speeds
- 7) There are high levels of traffic along Wykin Road including buses and HGVs
- 8) There is considerable congestion on Wykin Road at various times of the day
- 9) There is potential for accidents at the access with Redmoor Academy increasing in size
- 10) The pre-application consultation by the applicant's was insufficient
- 11) Headlights from vehicles leaving the site will shine in neighbours' windows

- 12) Loss of light to neighbouring dwellings
- 13) Loss of value to adjacent properties
- 14) The site removes a piece of land ideal for further expansion of the school
- 15) There was a fire recently at the electricity sub-station
- 16) Violation of Human Rights for the existing properties on Wykin Road

## **6. Consultation**

- 6.1. No objections, some subject to conditions, have been received from the following:

Environmental Health (Drainage)  
Affordable Housing Officer  
Waste Services  
Leicestershire County Council (Highways)  
Severn Trent Water  
Environment Agency

- 6.2. Cllr David Bill – residents have raised several concerns over the massing of the development, lights shining into properties opposite the access and pedestrian/vehicular safety.
- 6.3. Cllr David Cope – there are concerns over the cabling serving the sub-station which is on the applicant's land, there is no bin storage area near the access, parking due to the proximity to the school, 850 new dwellings to the west of Hinckley will increase traffic along Wykin Road. The Council can demonstrate a five year housing land supply.
- 6.4. David Tredinnick MP – residents have raised concerns over the impact of the proposed development on pedestrian and vehicular safety. Given the number of objections this should be determined by the Council's planning committee.
- 6.5. Environmental Health (Pollution) – consideration should be given to the impact of the floodlights, serving the adjacent multi-use games area, on the proposed dwellings.
- 6.6. Arboricultural Officer – where trees are categorised as A or B, I would expect retention in their natural form and generally 20% incursions into the RPA is unacceptable if a tree merits retention.

## **7. Policy**

- 7.1. Core Strategy (2009)
- Policy 1: Development in Hinckley
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- DM1: Presumption in Favour of Sustainable Development
  - DM3: Infrastructure and Delivery
  - DM7: Preventing Pollution and Flooding
  - DM10: Development and Design
  - DM17: Highways and Transportation
  - DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
  - Planning Practice Guidance (PPG)

## **8. Appraisal**

### **8.1. Key Issues**

- Assessment against strategic planning policies
- impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon the highway
- Drainage
- Other matters

#### Assessment against strategic planning policies

- 8.2. The application site is located within the settlement boundary of Hinckley. Hinckley is designated as the sub-regional centre in the Core Strategy and has a wide range of facilities, services and access to sustainable modes of transport. Policy 1 of the Core Strategy supports new residential development within the settlement boundary.
- 8.3. This application proposes the erection of 7 no. dwellings comprising three two-bedroom dwellings and four three-bedroom dwellings. The dwellings are in reasonable proximity to several amenities.
- 8.4. Residential development within the settlement boundary of Hinckley is considered acceptable in-principle, subject to satisfying other policies within the Development Plan and all other material planning considerations.

#### Design and Impact upon the character of the area

- 8.5. Policy DM10 of the SADMP seeks to ensure that developments complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and incorporate a high standard of landscaping which would add to the quality of the design and siting. Paragraphs 56 – 58 iterate that The Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development, is indivisible from good planning. Paragraph 58 of the NPPF states decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
- 8.6. Policy DM17 of the SADMP seeks to ensure that developments have convenient and safe access for walking and cycling to facilities and services. Paragraph 35 of the NPPF states that developments should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians.
- 8.7. The majority of the application site is located to the rear of no.12 Wykin Road and would be considered backland development with no frontage onto Wykin Road. There is an example of backland development to the east of the application site, the Pepper Box. The Pepperbox was an infill development between Cadeby Close and dwellings fronting Stoke Road and Wykin Road. This property has an access road between nos 19 & 21 Stoke Road, this is relatively open and allows a view of the building to the rear and therefore provides a positive impact to the character of Stoke Road. North of the Pepper Box, to the north east of the application site, lies Cadeby Close, a cul-de-sac accessed from Stoke Road. Whilst Cadeby Close wraps around to the rear of some properties on Stoke Road, it has been designed to have a formal road with frontage to Stoke Road and is not considered to be backland development in the context of this application.

- 8.8. The proposal would not follow the existing character of the area as it would form a narrow private drive to a group of residential dwellings, with no views into the wider site due to the location of an existing dwelling and would result in no frontage to either Wykin Road or Stoke Road.
- 8.9. The bulk of the development is located at the northern end of the site with the dwellings relating well to one another and fronting the access as it runs east to west. Upon entering the site, there would be a long driveway bounded by minimal landscaping with high boundary treatments. Only a dormer bungalow would address the driveway with the rear elevation of plots 4-6 visible at the end of the private drive. These are only visible when you are within the site. The siting of the bungalow away from the dwellings to the north and away from the frontage of no. 12 Wykin Road would result in it appearing contrived in design and isolated from the frontage development of Wykin Road and the backland development to the north. The lack of dwellings fronting onto the driveway would create a long and narrow, uninteresting streetscape which would fail to create a strong sense of place upon entry of the site.
- 8.10. The design of the dwellings includes: a detached dwelling (plot 3), a pair of semi-detached dwellings (plot 1-2) and a row of terrace dwellings (plot 4-6) and dormer bungalow (plot 7). The scale of the dwellings does not exceed the surrounding built form. However, the development incorporates a mix of the dwelling types which on a small site would appear contrived.
- 8.11. The layout incorporates car parking provision for the proposed dwellings and no. 12 Wykin Road which would be replaced. The siting of car parking, forward of the dwellings and adjacent to the access would create a dominating level of hardstanding which would result in a poorly landscaped environment. Further to this, the lack of visitor parking and distance from Wykin Road would likely result in parking along the access which would be unsightly and further detract from the character of the area.
- 8.12. The proposed drive would not be adopted which results in the requirement for a bin storage area at the frontage of the site near to the adopted highway. This requirement increases unsightly hardstanding to the front of the site but also requires occupiers of the dwellings to drag bins, twice weekly, up to 90m to the bin storage area from their dwellings. It is unlikely that the occupiers of the proposed dwellings would drag bins this distance twice weekly and it would result in bins permanently located at the front of the site where there is insufficient space for the permanent siting of recycling and general waste bins.
- 8.13. An Arboricultural Report and Tree Management Plan have been submitted with the application. The report identifies multiple Category B and C trees on and adjacent to the boundary of the site. The layout avoids incursion within the root protection areas (RPA) of the majority of trees. There are Category B Ash trees of amenity value to the rear of the site which should be retained and would require tree protection measures during construction. There would be a significant incursion within the RPA of trees 6-9 although these are Category C conifers of little amenity value and harm or loss of the trees would not be detrimental to the character of the area. There would be a significant incursion from plot 4 within the RPA of two category B trees along the western boundary of the site, adjoining the school. The trees have amenity value and the impact upon them would be adverse to the character of the area. Additionally, several of the Category C trees along the boundary would require works to facilitate the development. The works required would result in an unnatural appearance to the trees which would detract from their landscape and amenity value. It is considered that the development fails to incorporate the existing landscaping features of value to provide a high quality scheme.

- 8.14. The proposed development would result in a form of backland development which is not in keeping with the character of the surrounding area. The layout and design would not constitute good design which is a key aspect of sustainable development, would not function well and complement or enhance the overall character and quality of the surrounding area and would not establish a strong sense of place using streetscape and buildings to create attractive and comfortable places to live and visit. It is considered that the proposed development would be contrary to Policy DM10 of the SADMP and paragraphs 56 – 58 of the NPPF.

Impact upon neighbouring residential amenity

- 8.15. Policy DM10 of the SADMP seeks to ensure that developments do not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings and that the amenity of future occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site. This is supported by paragraph 17 of the NPPF states that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.16. The application is adjoined by nos. 10 and 12 Wykin Road, the flats known as the Pepperbox and no. 8 Cadeby Close. The proposed access would be opposite nos. 13a and 17 Wykin Road.
- 8.17. No. 10 Wykin Road is separated from the application site by the electricity sub-station and to the rear by a close boarded fence. The additional traffic generated by the proposed development would not have an adverse impact on the amenity of the occupiers of no. 10.
- 8.18. Concern has been raised that the relocation and intensification of the access would cause harm to the amenity of the occupiers of 13a and 17 Wykin Road due to vehicle headlights causing light pollution to the properties. Whilst vehicles exiting the site may cause some shining of headlights towards and into the properties, it is not considered that this would have a significant adverse impact on the amenity of the occupiers.
- 8.19. The proposed development would reduce the size of the rear garden of no. 12 Wykin Road. A large patio area and rear garden would remain that are considered sufficient to serve the occupiers of no. 12 without harm to the amenity of the occupiers. The proposed dormer bungalow on plot 7 proposes roof lights in the roof slope facing no.12. These could be obscured glazed and non-opening to ensure no overlooking of the rear amenity space serving no.12 which could be secured through a planning condition. The proposed development is therefore not considered to have an adverse impact on the occupiers of no.12 with regards to overlooking, overbearing or overshadowing.
- 8.20. The proposed access would come diagonally in front of the bay window in the front elevation of no.12 and within 1m of the lounge window and 3m of the kitchen window in the side elevation. The amenity of the occupiers within the rooms served by these windows would be adversely impacted by the additional traffic generated by the proposed development. Two applications on the application site for two dwellings and three dwellings, refs: 87/00314/4 and 86/01268/4 were previously refused and dismissed at appeal. The accesses were proposed adjacent to the side elevation of no.12, similar to the current application although without curving away from the dwelling towards the rear. The appeals were dismissed based on the impact on the amenity of the occupiers of no.12 with the inspector commenting that:

*'The effect at Newhaven (no.12 Wykin Road) would be severe. The new driveway would go directly past and within feet of the lounge window and kitchen window on the eastern side of the bungalow.'*

*Pedestrians gaining access to the properties behind Newhaven would be able to pass the bungalow and look directly into the lounge and kitchen of that property. This would produce an intolerable invasion of privacy. People visiting the proposed development by car would cause, noise, vibration and disturbance in close proximity to a living environment..... I consider that an access drive between the bungalow and the electricity sub-station would create an unacceptable level of disturbance and an invasion of privacy of Newhaven.'*

- 8.21. Although this appeal decision is 30 years old, the requirement to protect the amenity of the occupiers of residential dwellings is still a requirement of Policy DM10 of the SADMP. The appeal demonstrates that an application for three dwellings to the rear of no.12 Wykin Road with an access drive along side the property would cause a loss of privacy and disturbance which is unacceptable.
- 8.22. The proposed development would result in vehicular movements passing in close proximity to the lounge window in the east elevation and forward of the lounge window in the front elevation. The impact on the kitchen window in the east elevation of the dwelling is lessened from the previous appeal decision due to the increase in separation distance of the access road and the elevation as a result of the curvature of the road. Nonetheless, the proposed development is for seven dwellings which would produce a significant increase in vehicular movements than that considered unacceptable in previous applications. It is therefore considered that the location of the proposed access drive would result in a loss of privacy and noise and disturbance which would have a significant adverse impact on the occupiers of no. 12.
- 8.23. Plots 4 – 6 of the proposed development would have a gable end facing the flats in the west elevation of The Pepperbox. There are flats at ground floor and first floor level with open plan kitchen/living rooms that only have windows in the west facing elevation. The gable end of the proposed units would be 12.8m from the windows. Good practice requires a minimum separation of 14m from habitable room windows onto two storey blank walls of adjacent buildings. Therefore, the proposed dwelling would have an adverse impact on the amenity of the occupiers of the ground floor flats of The Pepperbox and would be contrary to Policy DM10 of the SADMP.
- 8.24. The proposed dwellings would have reasonably sized rear amenity spaces to provide the occupiers with a good level of amenity. However, two of the plots; plot 3 in the north east corner and plot 1 in the north west corner of the application site would have their amenity space overlooked which would not provide a high standard of privacy for the future occupiers. No.8 Cadeby Close has been extended previously and includes a side facing window at first floor level. The window serves a bathroom but has not been obscured glazed and is opening and therefore the occupiers could look directly into the rear amenity space of the dwelling on plot 3. A two storey modular classroom has been sited at Redmoor Academy to the north west of the application site which would allow direct overlooking of the rear amenity space of plot 1.
- 8.25. Further to the above, to the west of the application site at Redmoor Academy is a multi-use games area which is served by 6.7m high flood lights. The floodlights are operational in winter months until 21:30. The committee report for the lights ref: 07/00919/C, notes that the flood lights may cause nuisance to the nearest neighbours if not adequately shielded. Plots 1 and 4 would be in close proximity to the flood lights which would cause some light pollution to the front elevation of plot 1, and the front and rear elevations and rear amenity space of plot 4.

- 8.26. When viewed cumulatively, the light pollution on plots 1 and 4, the overlooking impacts on plots 1 and 3 and the overbearing impact on the ground floor flats of The Pepperbox, it is considered that the proposed scheme would fail to provide a high quality of design and good standard of amenity for the occupiers of the proposed and surrounding dwellings in accordance with paragraph 17 of the NPPF. Furthermore, the proposed development would have a significantly adverse impact on the amenity of the occupiers of no. 12 Wykin and would therefore be contrary to Policy DM10 of the SADMP.

Impact upon highway safety

- 8.27. Policy DM17 of the SADMP supports development where it is demonstrated that there is not a significant adverse impact upon highway safety. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.
- 8.28. This application seeks to replace the existing access serving no.12 Wykin Road with an access adjoining Wykin Road further to the west, in a more central location. The access has been subject to revisions during the assessment of the application.
- 8.29. The access would be relocated further to the west to allow it to adjoin the highway at a 90 degree. The access is proposed to be 4.8m wide for a minimum of the 8m measured back from the edge of the footpath. Accesses serving 6 to 25 dwellings are required to be 4.8m and therefore the proposed access meets the criteria as set out in the 6Cs Design Guide.
- 8.30. The submitted plans show pedestrian visibility splays of 2m by 2m, measured from the edge of the footpath, at the access can be achieved and will kept free of any obstruction above 0.9m from ground level. The footpath adjacent to the access is approximately 3m wide. Therefore, it is possible to achieve the required vehicular visibility splays at the access for a 30mph speed limit. Due to the width of the footpath and visibility from the access, it is not evident that level of on-street car parking would cause harm to highway safety.
- 8.31. Leicestershire County Council (Highways) has been consulted on the application and raises no objection subject to the imposition on planning conditions. Their comments reiterated that concern has been raised over the sites proximity to the school and increased traffic concerns. However, a site visit was undertaken around school opening times and no severe traffic issues were witnessed. It was noted that an increase in parking outside schools does not correlate to an increase in road casualty rates.
- 8.32. As the proposed drive would not be adopted, no footpath has been included adjacent to the driveway and the driveway would not be lit at night. The lack of a footpath would require occupiers of the dwellings to walk along the driveway which at night in the dark could be dangerous, especially given the chicane at the entrance to the site which along with boundary treatments would reduce forward visibility of vehicles. The lack of a footpath could also prejudice use by and endanger wheelchair users and fails to minimise conflict between pedestrians and vehicles.
- 8.33. The layout incorporates car parking provision for the proposed dwellings and no. 12 Wykin Road which would be replaced. It is proposed to provide two car parking spaces per dwelling which is considered sufficient taking into account the location within Hinckley, the availability of public transport and the size of the dwellings. However, two of the spaces are not realistically functional as shown on the submitted plans. Plot 6 is served by one car parking space on its frontage and one space at the rear of the garden. The location at the rear of the garden is not practical. Additionally, in accordance with the 6Cs Design Guide, car parking

spaces should measure 2.4m x 5.5m plus 0.5m if bounded by a wall, fence or other obstruction. It is inevitable a boundary treatment would be provided around plot 6's rear amenity space and along the boundary with plot 7 resulting in the space being too small to be functional. Plot 7 is served by a parking space parallel to the driveway. The parking space measures the required 2.4m x 5.5m but is not functional due to the lack of space for manoeuvring in and out of the space. Furthermore, no visitor parking is provided on-site. Due to the separation of the dwellings from Wykin Road, this is likely to occur in the hammer head or along the driveway. Parking within the hammer head would present a danger as this is required for emergency vehicles to be able to manoeuvre.

- 8.34. The proposed access meets the standards as set out in the 6Cs Design Guide and does not present any harm to pedestrians and vehicles using the adjacent highway. However, due to the layout and car parking provision, the development would not minimise conflict between pedestrians and vehicles and is considered to be contrary with Policy DM17 of the SADMP.

#### Drainage

- 8.35. Policy DM7 of the SADMP seeks to ensure that new development does not create or exacerbate flooding.
- 8.36. The proposed development is located within Flood Zone 1 and is not at risk from surface water flooding. Environmental Health (Drainage) and Severn Trent Water have raised no objection to the development subject to the inclusion of sustainable urban drainage which can be secured through the imposition of a planning condition.
- 8.37. It is considered that the proposed development would not create nor exacerbate flood risk and is in accordance with Policy DM7 of the SADMP.

#### Other matters

- 8.38. Concern has been raised that the proposed development would have an adverse impact on the value of adjacent properties. In this instance, the impact on surrounding property values is not a material planning consideration.
- 8.39. Concern has been raised that the development would result in the loss of a piece of land that would be well suited for the expansion of the Redmoor Academy in the future. The site has not been allocated for retention for the expansion of the school in the SADMP and therefore this is not a material planning consideration.
- 8.40. Concern has been raised that the proposed development violates the Human Rights of existing properties on Wykin Road. However, no specific details have been provided.

### **9. Equality Implications**

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

9.3. There are no known equality implications arising directly from this development.

## **10. Conclusion**

10.1. The application site is located within the settlement boundary of Hinckley where residential development is generally supported by Policy 1 of the Core Strategy, subject to satisfying other policies and material planning considerations.

10.2. The proposed access adjoining Wykin Road is designed in accordance with the standards as set out in the 6Cs Design Guidance and would not have an adverse impact on highway safety. The development could provide sustainable urban drainage and would not create or exacerbate flooding. By virtue of the layout, scale and design the development would not have an adverse impact on the occupiers of no. 8 Cadeby Close, no.10 Wykin Road and the first floor flats of The Pepperbox.

10.3. By virtue of the layout and design, there are negative impacts which cumulatively would result in a development which would not function well and complement or enhance the overall character and quality of the surrounding area, would fail to provide a good standard of amenity for future occupiers of the proposed dwellings and adversely impact on the existing occupiers of the ground floor of The Pepperbox. It is considered that the development would not constitute good design which is a key aspect of sustainable development and it is therefore contrary to Policies DM1, DM10, DM17 and DM18 of the SADMP and paragraphs 56 and 57 of the NPPF.

10.4. By virtue of the layout of the access in close proximity to the front and side windows of no. 12 Wykin Road, it is considered that the proposed development would lead to a loss of privacy and noise and disturbance from vehicles which would have a significant adverse impact on the occupiers of the dwelling. The development would be contrary to Policies DM1 and DM10 of the SADMP.

## **11. Recommendation**

11.1. Refuse planning permission subject to the reasons at the end of this report.

### **11.2. Reasons**

1. Due to the constrained nature of the site, the resulting development would fail to complement and enhance the overall character of the area by virtue of its layout and design. Good design is a key aspect of sustainable development and the development is therefore contrary to Policies DM1, DM10, DM17 and DM18 of the Council's Adopted Site Allocations and Development Management Policies DPD and paragraphs 56 and 57 of the National Planning Policy Framework.
2. The siting and location of the proposed dwellings and access road would have a significant adverse impact upon the amenity of existing residents at No.12 Wykin Road and The Pepperbox and future occupiers of the proposed dwellings. The development would therefore be contrary to Policies DM1 and DM10 of the Council's Adopted Site Allocations and Development Management Policies DPD.

### **11.3 Notes to applicant**

1. This application has been determined having regard to the following documents and plans submitted with the application: Planning Application Form; 4327/03 rev G - Site Layout (received on 12 January 2017); Tree Management Programme (received on 4 January 2017); 4327/06 rev B - Plots

1 & 2, 4327/07 - Plot 3, 4327/05 rev B - Plots 4 - 6, 4327/04 rev B - Plot 7 (received on 12 August 2016); Arboricultural Report, Design and Access Statement, Planning Statement (received 22 March 2016).

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Planning Committee 28 February 2017  
Report of the Head of Planning and Development

Planning Ref: 16/00976/FUL  
Applicant: Mr Michael Cash  
Ward: Hinckley Trinity

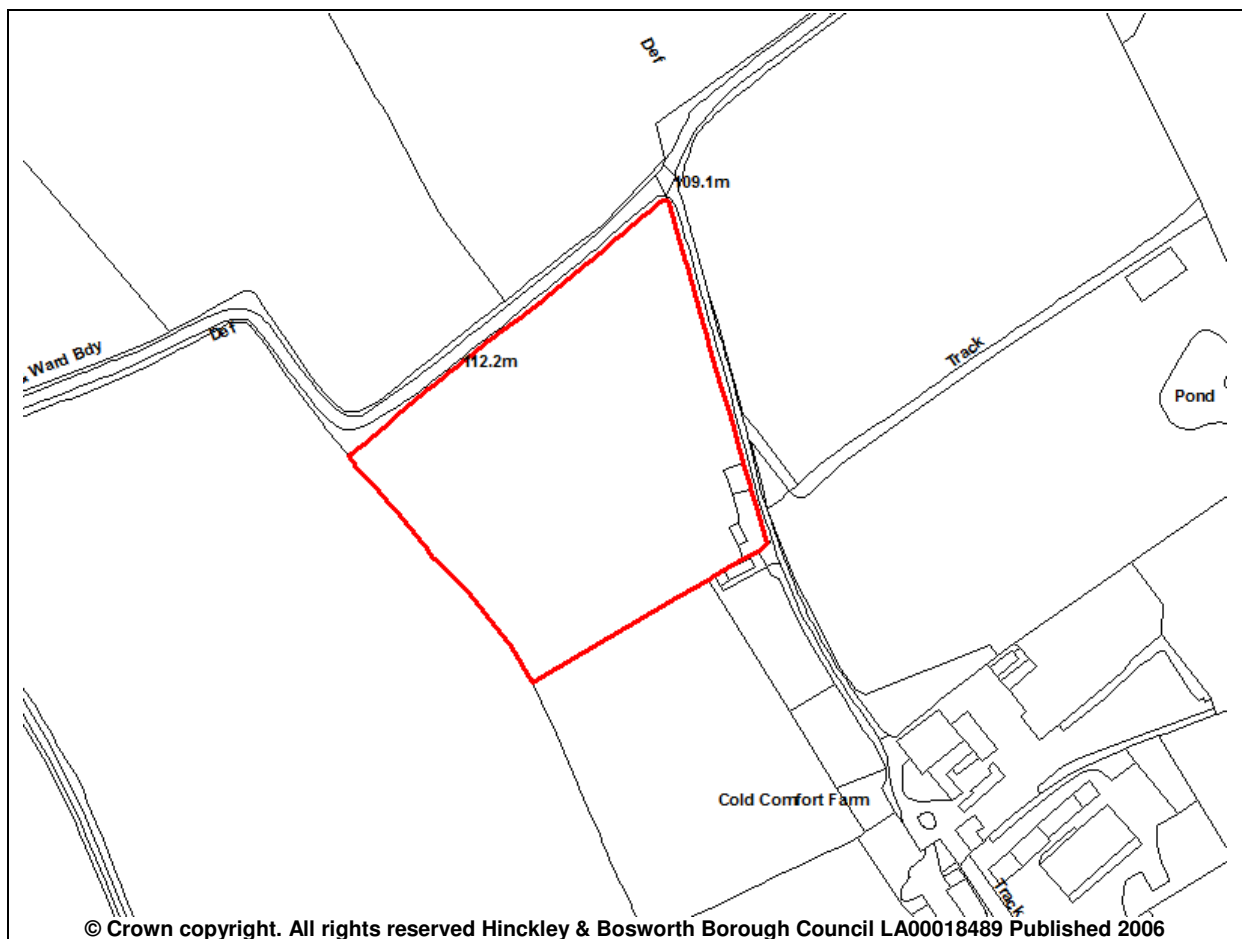


Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

Site: Land Adj To Cold Comfort Farm Rogues Lane  
Hinckley

Proposal: Erection of two day room buildings and the relocation of the site access



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## 1. Recommendations

### 1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

## 2. Planning Application Description

- 2.1. The applicant seeks planning permission for the erection of two day rooms and the relocation of the access to the site. One day room would be located on each of the approved pitches for use by the occupiers of each. The access will also be moved further down the track to enable a straight access through the site onto the pitches.

### 3. Description of the Site and Surrounding Area

- 3.1. The site comprises a parcel of previously agricultural land which is approximately 0.3 hectares in size, to the west of the site the two traveller pitches are situated; currently comprising one static and one touring caravan to each. The site is bounded by mature hedgerows, with an access track to the east of the field, the track itself serves two residential dwellings; namely Cold Comfort Farm and the Barn. To the west of the site is a public footpath, T60 and to the north of the site is Rogues Lane.

### 4. Relevant Planning History

15/00026/ENF	Without planning permission the unauthorised change of use of land from agriculture to use as a residential gypsy and traveller caravan site	Appeal Allowed	10.08.2016
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- 4.1. On the 2 July 2015; on the site known as Land North West of Cold Comfort Farm, Rogues Lane, Hinckley an unlawful gypsy and traveller encampment occurred. The Local Planning Authority served appropriate notices requiring the cessation of the use. The owners then appealed the decision and the application was approved by the Planning Inspector on the 10 August 2016. Inspector's findings were as follows:
- 4.2. *"The harm I have identified to the character and appearance of the area has been limited to some degree by the context of the site while concern about the relationship to services is similarly reduced because of the distances involved. However, the interests of the unborn child, the families homelessness and the lack of identified gypsy and traveller sites going forward are each matters to which I attach significant weight and, when taken together, they outweigh the harms identified"*
- 4.3. Therefore based on these considerations a temporary planning permission was granted on the site for five years.

### 5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. Two letters of objection have been received; the points raised are summarised below:
- 1) Development would impact further on the countryside.
  - 2) The area is noted for Great Crested Newts; removing sections of hedgerow and blocking/piping the ditch without sufficient monitoring will potentially damage the local ecosystem and habitat for such amphibians.
  - 3) Granting permission for this development would make the site permanent when only a temporary permission has been granted.
  - 4) The site is in an unsustainable location as noted by the Planning Inspectorate.
  - 5) The current static mobile homes on site have all the facilities available to them, why is there a need to have a further permanent structure when all the facilities are available within the caravans.

- 6) County Highways cannot confirm the status of the drive, as they assume that it is an un-adopted public highway. Due to the uncertainty permission should not be granted for this proposal.
- 7) The gypsy status of the occupiers needs to be clarified further in order to determine this application.
- 8) Local residents have stated that their family's rights under Article 1, 6, 8 and 14 of EHCR have been breached by previous decisions granted.
- 9) The area is noted for its bat population, the development will impact unnecessarily upon the local wildlife.
- 10) Altering the access will encourage more development further down the line by easily splitting up the field.

## **6. Consultation**

- 6.1. Leicestershire County Council Gypsy and Liaison Officer has stated that the relocation of the access will provide a safer and more direct access onto the highway. Also the erection of the day rooms will provide better facilities and a safer environment in which to care for the youngest member of the Family.
- 6.2. Severn Trent Water has no objection to the development subject to an appropriate condition imposed surrounding drainage plans for the disposal of surface water and foul sewage.
- 6.3. Leicestershire County Council (Highways) has previously made objections to any increase in development at this site; however as the access proposals are broadly similar to those which have already been approved by the Planning Inspectorate the Highway Authority has no grounds for refusal of this slightly amended proposal.
- 6.4. HBBC Environmental Health (Drainage) has no objection to the proposal and recommended notes to applicant to be included to take into account a suitable permeable surface to be laid.
- 6.5. HBBC Environmental Health (Pollution) has no objection to the application.
- 6.6. No comments have been received from the following:
  - Stoke Golding Parish Council
  - Ramblers Association

## **7. Policy**

- 7.1. Site Allocations and Development Management Policies DPD (2016)
  - Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM4: Safeguarding the Countryside and Settlement Separation
  - Policy DM7: Preventing Pollution and Flooding
  - Policy DM10: Development and Design
  - Policy DM17: Highway Design
  - Policy DM18: Vehicle Parking Standards
- 7.2. National Planning Policies and Guidance
  - National Planning Policy Framework (NPPF) (2012)
  - Planning Practice Guidance (PPG)
  - Planning Policy for Traveller Sites (2015)

## **8. Appraisal**

### **8.1. Key Issues**

- Assessment against strategic planning policies
- Impact upon the character and appearance of the area
- Impact upon neighbouring residential amenity
- Impact upon the highway
- Planning Balance

#### Assessment against strategic planning policies

8.2. Policy DM1 of the adopted Site Allocations and Development Management Policies DPD (SADMP) sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved.

8.3. Planning Policy for Travellers Sites (2015) (PPTS) states that all decisions should be made in line with the National Planning Policy Framework with a presumption in favour of sustainable development. In determining this application, consideration must be given to each of the strands of sustainability.

#### Impact upon the character of the area

8.4. Policy DM4 of the SADMP requires that this development should not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.

8.5. Policy DM4 also sets out the criteria of development which will be considered sustainable in the countryside.

8.6. Policy DM4 states development in the countryside will be considered sustainable where; it is for outdoor sport or recreation purposes and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; the proposal involves the change of use, reuse or extension of existing buildings which lead to the enhancement of the immediate setting; it significantly contributes to economic growth, job creation and/or diversification of rural business; it relates to the provision of stand alone renewable energy developments; it relates to the provision of accommodation for a rural worker. The proposal of the day rooms does not meet any of the criteria and is therefore contrary to Policy DM4 of the SADMP.

8.7. When considering sustainability the site is located a considerable distance away from any services and therefore there is a reliance on using private motor vehicle. The site is located within a countryside location and the erection of the day rooms would significantly harm the character of the countryside and is considered to be an unsustainable form of development and contrary to DM4.

8.8. Policy DM10 of the SADMP seeks to ensure that new development complements or enhance the appearance and character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

8.9. The two day rooms would be positioned adjacent to the existing gypsy and traveller pitches. The day rooms would be constructed out of traditional red bricks and would be completed with timber slats over the structure; the roof would be constructed out of concrete roof tiles. The day rooms would be 4 metres in height to the ridge and 2.5 metres to the eaves of the buildings. The floor space of each of the buildings would be 36 square metres.

- 8.10. At present, the site is well screened from Rogues Lane by the dense tall hedge that runs along the entirety of that boundary. Moreover, this hedge turns to run alongside the west side of the track and similarly screens the development from that direction. However, despite this; views are possible through the gateway, and those would be increased with the removal of some of the hedge to provide improved sight splays as part of the works to provide the new access. The day rooms would also be clearly visible from the public footpath that runs to the west of the site.
- 8.11. The agent has been contacted to ascertain whether the number of day rooms could be reduced to one which would reduce the impact on the surrounding countryside. At present no response has been received.
- 8.12. It is therefore considered that due to the day rooms location away from any existing buildings which are also visible from public vantage points the impact on the open character of the countryside would be exacerbated. Whilst the site is partially concealed, the development would still cause undue harm to the character of the countryside and is considered to be contrary to Policy DM4 and DM10 of the Site Allocations and Development Management Policies DPD.

Impact upon neighbouring residential amenity

- 8.13. Policy DM10 of the SADMP states that development should be permitted providing that the development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality, noise, vibration and visual intrusion.
- 8.14. The nearest residential property to the existing pitches and proposed location for the day rooms is Cold Comfort Farm ; approximately 230 metres away. However, due to the day rooms being located next to a mature hedgerow and located a considerable distance away from neighbouring properties the position of the day rooms would not have an impact on neighbouring residential amenity. It is therefore considered that the development is in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

Impact upon Highway Safety

- 8.15. Policy DM17 and DM18 of the SADMP require development to accord with adopted highway design and vehicle parking standards to ensure that there is adequate highway visibility for road users and adequate provision of off-street parking and manoeuvring facilities. Paragraph 32 of the NPPF states that development should only be refused on highway grounds where the residential cumulative impacts of development are severe.
- 8.16. The proposed access will be altered slightly from the original scheme which was approved by the Inspector but will be of similar design. The Planning Inspector considered that the highway would not have a severe or significantly adverse effect on highway safety due to the limited number of movements at present and their slow speeds. The Inspector was satisfied that the additional activity would not cause harm to highway safety and therefore the development is in accordance with Policy DM17 and DM18 of the Site Allocations and Development Management Policies DPD.
- 8.17. It is considered that it would be appropriate for the existing access to be closed up once the development has been completed to ensure that there is only one access to the site and to ensure the continuity of the hedgerow; and to provide additional screening of the site.
- 8.18. Concerns have been raised about the uncertainty in regard to the status of the access track. However, this has no bearing on the reasoning as there is no basis to consider the access track to be upgraded.

### Planning Balance

- 8.19. In the decision to grant temporary permission for the site the inspector found that harm was caused by the development to the character and appearance of the area, and to the aims of sustainability as a result of the reliance on the car, giving rise to a conflict with the Development Plan and the Framework on those points.
- 8.20. However, this conflict with Council's adopted Development Plan and the Framework had to be balanced against a number of factors.
- At the date of the hearing HBBC could not show a 5 year supply of deliverable sites.
  - The inspector had been told that at the date of the hearing there were no alternative pitches available in the borough and having to leave the site meant that the occupants would be homeless.
  - One of the occupants was expecting her first child and the United Nations Convention on The Rights of Children was engaged.
- 8.21. The case of *Stevens v Secretary of State for Communities and Local Government* 2013 was acknowledged in a Court of Appeal case later the same year as the first occasion in which the SoS had made a clear concession that Article 3 (1) of the Convention applied to planning determinations of both local planning authorities and the SoS.
- 8.22. The consequences of the application of Article 3 and Article 24, to which the Inspector also referred was that the Inspector, and also HBBC as Local Planning Authority, was bound to treat the best interests of the child as a 'primary consideration'.
- 8.23. These were the factors which the Inspector had to balance at the hearing in coming to his decision and whether the considerations listed in above outweigh the harm to the open landscape character of the countryside.
- 8.24. He found in paragraph 56 of the appeal decision that the interests of the unborn child, the families' homelessness and the lack of identified gypsy and traveller sites going forward were each matters to which he attached significant weight and when taken together they outweighed the harms identified. The result was that the occupiers have a temporary permission for five years subject to the conditions imposed by the inspector.
- 8.25. A balancing exercise also needs to be taken into account in a consideration of this application for two day rooms and the access proposals.
- 8.26. The report has identified harm to the character of the countryside and this has to be weighed against a number of other factors, namely the temporary permission, which are a material planning consideration and the continuing interests of the child and how the proposed day rooms would impact on those interests.
- 8.27. In balancing the opposing factors consideration should be given to Article 24 of the Convention in the context of the interest of the child and the erection of the day rooms. Article 24 provides that children have the right to inter alia safe drinking water and a clean and safe environment. The Inspector stated that although the development would have some harm on the character of the surrounding area, the rights to a child under Article 24 of the Human Rights Convention to ensure "appropriate pre-natal and post natal health care for mothers". Therefore, although at the time of the Inspector's decision the child was not born, it is considered in the best interests are something that should be a consideration to which significant weight was given in the assessment. If the appeal was dismissed the time for compliance would more or less coincide with when the mother and child was

expected, thereby resulting in a need to move when the mother and child could be requiring medical attention. This would be to the detriment of the child. The proposed day rooms would contain kitchen and washing facilities which meets the requirements of safe drinking water and a clean and safe environment.

- 8.28. The permission if granted would also be temporary and would expire contemporaneously with the grant of temporary planning permission.

#### Other Issues

- 8.29. Concerns have been raised that the site is located in an area of Great Crested Newts and which has a bat population. Leicestershire County Council (Ecology) has been consulted on the application however no comments have been received. In regard to the impact on any existing bat population a survey is only required if works were being undertaken to an existing building. The day rooms are new structures and a bat survey would therefore not be required.
- 8.30. Concerns have been raised that the erection of two brick built buildings would give the impression that the site is permanent; however a suitably worded condition would be imposed to state that the buildings should be removed once the temporary permission has expired. Also the building will be finished with timber slats on the structure to give it an appearance of a temporary structure; this has been agreed with the applicant following negotiations.
- 8.31 Residents have stated that more clarity is needed in regard to the gypsy status of the owners. The Inspector stated in his decision that the owners have never lived in bricks and mortar and none of them have permanently ceased travelling and therefore all inhabitants satisfy the definition of gypsies and travellers given in Planning Policy for Traveller Sites (PPTS).
- 8.32 Concerns have been raised that altering the access to the site could encourage further caravans to move onto the site at a later date. If more caravans are situated on the site then appropriate action could be taken or an application could be submitted and considered on its own merits. This application cannot be determined based on future fears of what could happen on the site.
- 8.33 Objectors have also raised concern that their Human Rights would be affected as result of the development. The relevant articles of the European Convention on Human Rights (usually Article 6, 8 and Article 1 of the First Protocol) should normally be considered as an integral part of the Planning Committee's/Inspector's approach to material considerations, and the effect of the proposed development on adjoining owners must be considered in the context of the relevant Articles, and a balancing exercise is necessary. It should not be forgotten that, in carrying out that balancing exercise, the equivalent rights of the applicant have also to be weighed.
- 8.34 In relation to this application a balancing exercise against the relevant provisions of local and national planning policy has been undertaken. This report has summarised neighbour objections and an objectors are able to speak at the Planning Committee before a decision is made. In these circumstances, it is believed that there is a sound procedure for assessing and balancing competing interests. Therefore, as shown in this report a balancing argument has been made weighing up the decision with a conclusion taken place.

## **9. Equality Implications**

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

9.3 The equality implications arising from this application relate to the protected characteristics of the current owners and occupiers of the site as gypsies and travellers and the rights of a child. As stated within the previous Inspector's decision significant weight was given to these matters. In this report full consideration has been given to the personal circumstances of the owners.

## **10 Conclusion**

10.1 The proposed development of the two day rooms and the alteration of the access would cause harm to the character and appearance of the countryside and is therefore contrary to Policy DM4 and Policy DM10 of the Site Allocations and Development Management Policies DPD. To take into account the impact the development would have on the countryside negotiations have taken place with the applicant to ensure the finish of the structure would be in timber to lessen the impact on the countryside. However, given the previous appeal decision; considerable weight has to be given to the rights of the child and the fact that the day rooms are required as part of the cultural requirements of the gypsy and travellers lifestyle. The application is therefore contrary to the terms of the development plan however there are material considerations that outweigh the harm to the open character of the countryside.

10.2 As the site has been granted temporary planning permission it is considered acceptable to grant this application on a temporary basis in line with this time scale.

## **11. Recommendation**

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

### **11.2 Conditions and Reasons**

1. This permission shall expire on 10 August 2021 at which date all development detailed on the plan: Proposed Elevations and Floor Plan (Scale 1:100) and Proposed Plan (Scale 1:500) received on the 24 October 2016 shall be removed and the site restored to agriculture.

**Reason:** To ensure a satisfactory appearance and impact of the development to accord with Policies DM1, DM4 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

2. Prior to the commencement of development drainage plans for the disposal of surface water and foul sewage shall be submitted in writing to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

**Reason:** To ensure the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding

problem and to minimise the risk of pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD.

3. The development hereby permitted shall not be carried out except in complete accordance with details shown on the submitted plans: Proposed Elevations & Floor Plans (Scale 1:100), Proposed Plan (Scale 1:500) and Location Plan (Scale 1:2500) received by the Local Planning Authority on the 24 October 2016.

**Reason:** To ensure a satisfactory appearance and impact of the developments to accord with Policies DM1, DM4 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

4. The existing access at land adjacent to Cold Comfort Farm, Rogues Lane, Hinckley shown on the site Proposed Plan shall be permanently closed and incorporating the planting of a hedgerow in this location, within 7 days of the proposed new access being brought into use.

**Reason:** To ensure the removal of unnecessary points of traffic conflict in the highway in the interests of highway safety in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD.

### 11.3 Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. This permission is granted on a temporary basis only. No renewal of this permission will be likely and you will therefore need to address a permanent solution before the period of the permission expires.
3. Any access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet.

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**Planning Committee 28 February 2017  
Report of the Head of Planning and Development**

**Planning Ref:** 16/01159/HOU  
**Applicant:** Mr Gary Henly  
**Ward:** Hinckley Clarendon

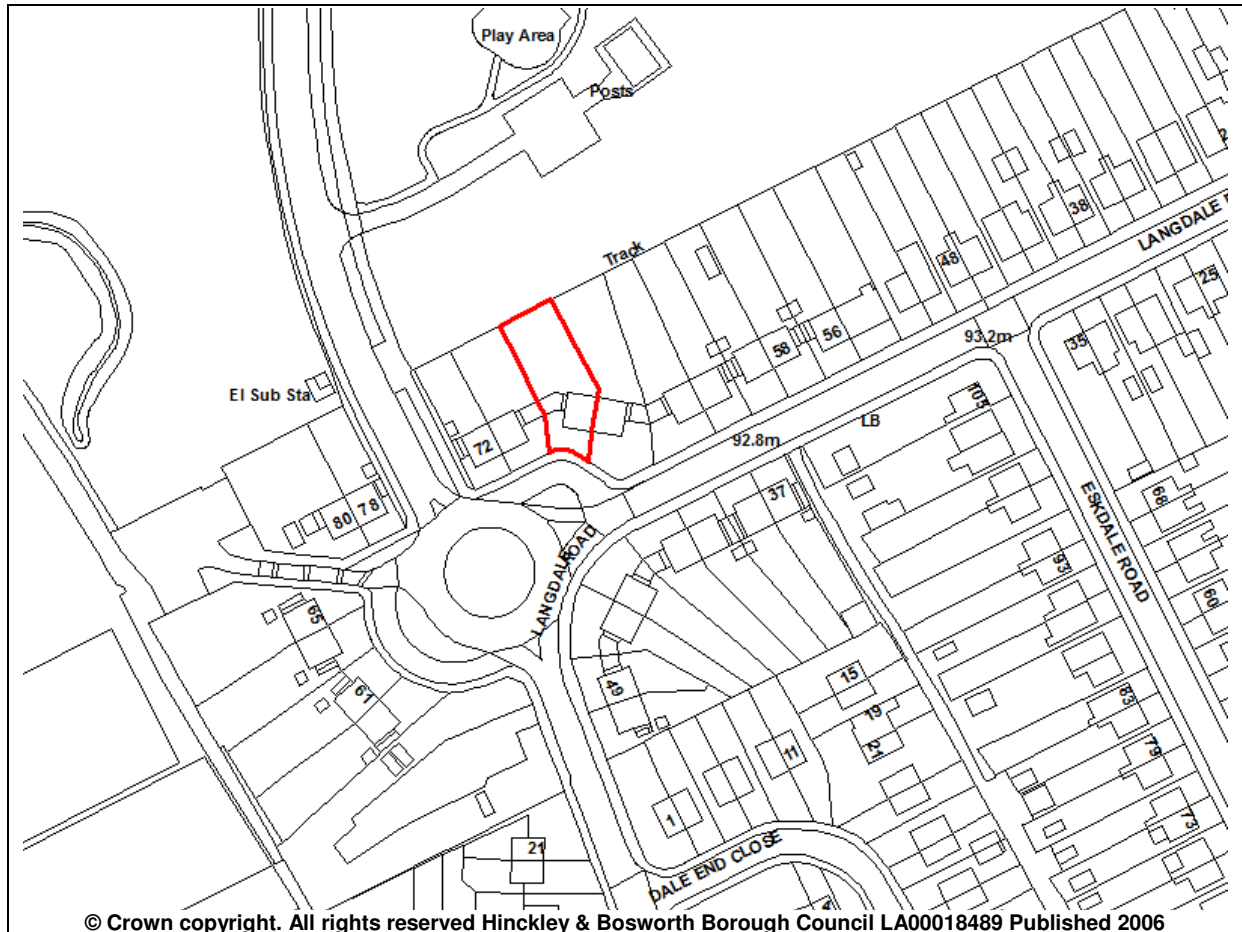


Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**Site:** 68 Langdale Road Hinckley

**Proposal:** Two storey side and single storey rear extension



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

### 1.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions.

## 2. Planning Application Description

### 2.1. This application seeks full planning permission for a two storey side and single storey rear extension at 68 Langdale Road, Hinckley. The proposal would provide one additional bedroom resulting in a 6 bedroomed property.

### 2.2. This would allow the property to be occupied as a house of multiple occupation and the agent has confirmed that this will be the case. Class L Part 3 of The Town and

Country Planning (General Permitted Development) (England) Order 2015 allows the change of use from a dwellinghouse (class C3) to a house of multiple occupation (Class C4). Class C4 is defined as 'use of a dwellinghouse by not more than six residents as a 'house in multiple occupation'. The applicant has confirmed that the proposal will be in compliance with permitted development and therefore this application is for the extension to the property only and not for the change of use to a house of multiple occupation.

### **3. Description of the Site and Surrounding Area**

- 3.1. The application property is a two storey semi-detached dwelling located in a residential area adjacent to similarly designed two storey semi-detached properties. The application property is set on a curved lay-by, set off Langdale Road adjacent a roundabout.
- 3.2. Many of the semi-detached pairs are also linked by single storey elements to another semi-detached pair. To the front of site is a gravel parking area and to the rear of the site is a large playing field.

### **4. Relevant Planning History**

None

### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. 12 letters of representation were received from seven different addresses raising the following concerns:-
- 1) Impact upon parking
  - 2) Impact upon sewerage
  - 3) Inaccuracy of the plans
  - 4) Impact upon noise, light and privacy or adjoining neighbours
  - 5) Impact upon the character of the area and street scene
  - 6) Impact during construction
  - 7) The use of the property is out of character and potential anti-social behaviour

### **6. Consultation**

- 6.1. No comments received from West Clarendon Neighbourhood Forum.

### **7. Policy**

- 7.1. Core Strategy (2009)
- None relevant
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM10: Development and Design
  - Policy DM17: Highway Safety
  - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
  - Planning Practice Guidance (PPG)

## **8. Appraisal**

### **8.1. Key Issues**

- Assessment against strategic planning policies
- Impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon the highway
- Other issues

#### Assessment against strategic planning policies

- 8.2. Paragraphs 11-13 of the National Planning Policy Framework (NPPF) state that the development plan is the starting point for decision making and that it is a material consideration in determining applications. The development plan in this instance consists of the Site Allocations and Development Management Policies (SADMP) DPD and the Core Strategy (2009).
- 8.3. Policy DM1 of the SADMP provides a presumption in favour of sustainable development. The policy sets out that those development proposals that accord with the development plan should be approved without delay unless material considerations indicate otherwise.
- 8.4. The proposal is located within the settlement boundary for Hinckley, which is a sub regional centre and the principle of a house extension is considered acceptable, subject to all other material planning considerations being acceptable.

#### Impact upon the character of the area

- 8.5. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. It is contended that the development proposed by this application would meet the aims and requirements of the above for the reasons given below.
- 8.6. The application dwelling is a two storey semi-detached property located adjacent two storey semi-detached properties. The proposed two storey side extension would project approximately 2.9 metres from the existing side elevation, would be set back from the front elevation by approximately 1 metre and would be set level with the rear elevation of the existing property. The proposed extension would be set down from the existing ridge by approximately 0.35 metres and would be hipped, matching the existing hipped nature of the property. The proposed two storey side extension would be set approximately a minimum of 0.7 metres from the boundary of the site. The proposed materials for the extension would match that of the existing.
- 8.7. Due to the curved nature of the street scene, the set back and set down nature of the extension, the distance to the boundary and the matching roof and materials, the proposed two storey side extension would not have an adverse impact upon the character of the street scene or the character of the host dwelling.
- 8.8. In addition to the above, there is a matching two storey side extension located in the vicinity of the application site, with a similarly designed set down, set back and hipped nature.
- 8.9. The proposed single storey rear extension would project approximately 1.5 metres from the existing rear elevation of the property and would be set on the centre of the application site, not visible from the street scene. The proposed rear extension would match the existing style, design and materials of the existing rear extension and would therefore not impact upon the character of the host dwelling.

- 8.10. The parking spaces provided to the front of the site would not detract from the character of the area. To ensure there is no impact upon the street scene it is recommended to condition appropriate landscaping to the front of the site.
- 8.11. Overall the proposal is considered to complement the character of the existing dwelling and street scene in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.12. Policy DM10 of the SADMP state that proposals should not adversely affect the occupiers of the neighbouring properties.
- 8.13. The proposed two storey side extension would be set off the boundary by approximately a minimum of 0.7 metres from the boundary with no. 70 Langdale Road, a two storey semi-detached property. Due to the curved nature of the street, no. 70 projects away from the application site and is therefore located approximately a distance of 5.5 metres from the boundary of the site. There are two windows located on the side elevation of no. 70, however one serves a non-habitable room and one is obscure glazed serving a bathroom. Further to this, the proposed two storey side extension projects away from no. 70 and would have a hipped roof. There is one window located on the front elevation of the ground floor side extension of no. 70, however the proposed extension would be set only slightly forward of this window and as such would have no adverse impact upon loss of light.
- 8.14. As a result of the distance to the neighbouring property, the proposed extension projecting away from the neighbouring property and the siting of the windows, there is not considered to be an adverse impact upon residential amenity in respect of loss of light or an overbearing effect.
- 8.15. There are no windows located on the side elevation of the proposed extension and as a result of the proposed extension projecting away from no. 70 there would be no impact upon loss of privacy.
- 8.16. The proposed rear extension as a result of its single storey nature and location in the centre of the site would not impact upon the residential amenity of any neighbouring properties.
- 8.17. It is therefore considered that due to the siting of the proposed extensions, there would be no adverse impact upon the residential amenity of any neighbouring properties and the proposal is considered to comply with Policy DM10 of the SADMP.

Impact upon Highway Safety

- 8.18. Policy DM17 and DM18 of the SADMP states that proposals should ensure that there is adequate provision for on and off street parking for residents and visitors and there is no impact upon highway safety.
- 8.19. The proposal would create one additional bedroom, resulting in a 6 bedroomed property. Leicestershire County Council's 6Cs Design Guide states that dwellings with four or more bedrooms should provide three off street parking spaces. There is a parking area located to the front of the site with the proposal providing provision for three off-street parking spaces. All three parking spaces would be of adequate size in accordance with Leicestershire County Council's 6Cs Design Guide.

- 8.20. Further to this and to overcome concerns raised by neighbouring properties, a lay by is situated to the front of the site which would allow for further parking off the main road. In addition, on street parking is common within this area of Langdale Road and there are also two car parks located within the vicinity of the area, one to the rear of the site and one located the other side of the roundabout.
- 8.21. It is therefore considered that due to the nature of the site and provision of off street parking and further parking in the vicinity it is considered that there would be no impact upon highway safety and the proposal would comply with Policy DM17 and DM18 of the SADMP.

#### Other issues

- 8.22. Concerns have arisen regarding the potential impact upon drainage of the property. However it is not anticipated that this minor extension would impact upon the existing drainage network.
- 8.23. Concerns have arisen regarding the use of the property, with 6 bedrooms provided and the impact this could have on the character of the area including potential anti-social behaviour. As discussed earlier, under permitted development rights, permission is not required to change a dwelling to a small (6 residents or under) house in multiple occupation (HMO). As this would only have 6 bedrooms, planning permission is not required to change this property into a small HMO. This application is therefore only for a two storey side and single storey rear extension and no consideration can be given for the use of the property.
- 8.24. Concerns have arisen regarding potential impact during construction. It is not anticipated that there would be any impact upon neighbouring properties during construction due to the size of the extension and on site availability. Any access within neighbouring properties during construction is a civil matter between the parties and is not a material planning consideration.
- 8.25. Concerns have arisen regarding the accuracy of the plans, however the application is valid and the plans are accurate.

### **9. Equality Implications**

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

### **10. Conclusion**

- 10.1. The proposal is located within the settlement boundary for Hinckley and there is a presumption in favour of sustainable development as set out in Policy DM1 and the wider policies of the NPPF.

- 10.2. The proposal would respect the scale and character of the existing dwelling and street scene, retain adequate private amenity within the curtilage and would not adversely affect the amenities of the occupiers of neighbouring properties. The application is considered to be in accordance with Policy DM1, DM10, DM17 and DM18 of the SADMP and is recommended for approval subject to conditions.

## **11. Recommendation**

### **11.1. Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

- 11.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions.

### **11.3. Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Proposed Elevations and A-A Section drg. no. 25706 (20) 002C (scale 1:50), Proposed Floor and Roof Plans drg. no. 25706 (20) 001D (scale 1:50), Proposed Roof Plan drg. no. 25706 (20) 102D (scale 1:100), Proposed Site Plan drg. no. 25706 (20) 101D (scale 1:100) and Proposed Block Plan drg. no. 25706 (20) 103A (scale 1:250) received by the Local Planning Authority on 6 February 2017.

**Reason:** To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

3. The materials to be used on the external elevations of the proposed extension and alteration shall accord with the approved Proposed Elevations and A-A Section drg. no. 25706 (20) 002C (scale 1:50).

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

4. No development shall commence until there has been submitted to and approved in writing by the Local Planning Authority, a scheme of hard and soft landscaping works for the front of the site. All hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of a similar size and species.

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

5. Before first use of the development hereby permitted, parking facilities as shown on approved plan Proposed Block Plan drg. no. 25706 (20) 103A (scale 1:250) received by the Local Planning Authority on 06 February 2017 shall be provided and be made available for use within the site to allow the provision of three vehicles to park. The area so provided shall not be obstructed and shall thereafter be permanently so maintained at all times.

**Reason:** To enable vehicles to park within the application site to ensure the proposal does not lead to an increase in on-street parking in accordance with Policy DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

#### 11.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.

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Planning Committee 28 February 2017  
Report of the Head of Planning and Development

Planning Ref: 16/00441/FUL  
Applicant: Mr R Morris  
Ward: Burbage St Catherines & Lash Hill

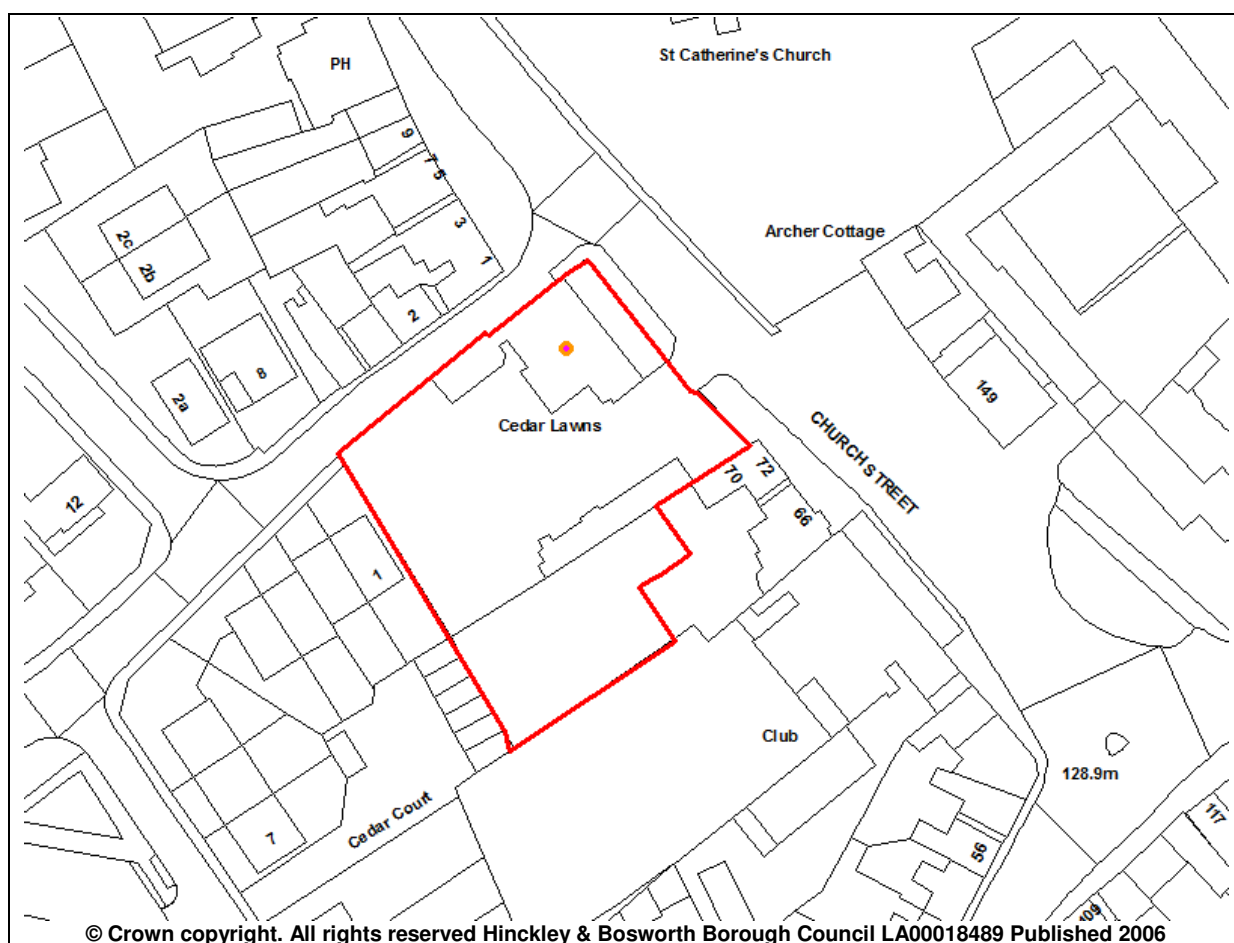


Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

Site: Cedar Lawns Church Street Burbage

Proposal: Conversion of offices (B1a) to 5 flats (C3) including demolition of single storey rear extension, conversion of outbuilding to 1 dwelling and erection of 3 new dwellings



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

### 1.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions.

## 2. Planning Application Description

### 2.1. This application seeks full planning permission for the conversion of the existing building from offices to 5 one and two flats, the conversion of the existing outbuilding to 1 dwelling and the erection of 3 dwellings. The proposal also includes

the demolition of the single storey rear extension to the main building, part demolition of the outbuilding and rebuilding of the boundary wall to Grove Road.

- 2.2. Amended plans have been received addressing officer concerns regarding the overdevelopment of the site. As a result, the total number of dwellings proposed has been reduced from 12 to 9. Further amended plans were received addressing additional concerns regarding the site layout and landscaping and as a result further landscaping and relevant alterations to the site plan has been received.
- 2.3. There would be 3 x 1 bedroom flats and 2 x 2 bedroom flats in the main building, both the conversion and detached new build would have 3 bedrooms and would be 1 and ½ storeys in height. Two single storey, 2 bedrooomed semi-detached bungalows are proposed to the rear of the site.
- 2.4. No significant changes or alterations are proposed to the external elevations of the main building. A new AOV (automatic opening vent) rooflight is proposed to the front roof slope, the existing roof light to the rear roof slope would be removed, the existing window on the side elevation to Grove Road would be replaced with a new heritage style timber framed window and a new external grade door to be fitted into the existing opening on the rear elevation.
- 2.5. The site includes the formation of 11 parking spaces and new entrance gates to the site. The existing wall and posts to the front of the site are to be retained with the slight demolition of a small part of the front wall to increase the width of the access.
- 2.6. Landscaping to the front of the site would be retained with the exception of the one tree adjacent the front elevation of the building. Additional landscaping is proposed throughout the application site with additional planting proposed on the west and south boundaries of the site.
- 2.7. A design and access statement, heritage statement and a photographic survey have all been submitted to support the application.
- 2.8. The proposed works internally and externally to the listed building, outbuildings and walls and demolition of part of the building and outbuildings are also subject to a separate application (ref: 16/00442/LBC).

### **3. Description of the Site and Surrounding Area**

- 3.1. The application site is located within the settlement boundary and conservation area of Burbage. The application site is located on the junction of Church Street and Grove Road and is sited adjacent a number of residential properties.
- 3.2. The main building, Cedar Lawns is a large three storey Grade II building listed in 1989. The main building was a former house, built in early to mid 19<sup>th</sup> Century with red brickwork with cement dressings and a parapet to Swithland slate roof with four ridge stacks. To the front of the property, there is a regular 3 window style with moulded still brackets on the first and second floor and square bays on the ground floor. There is a central panelled door with a fanlight under a round headed hood build in late 19<sup>th</sup> Century.
- 3.3. Four large mature trees are located to the front of the site which limits views into the site and partially shields the main building. The main building is currently used as an office with storage located within the existing outbuilding. Car ports are provided in the existing outbuilding with an un-formalised car parking arrangement provided in the rear of the site.
- 3.4. The application site is currently of an overgrown nature with the rear garden having a shrub like appearance. As a result of the overgrown areas, the boundary wall adjoining the land to the rear of no. 66-72 Church Street is not visible from the site.

This area of land to the rear of no. 66-72 Church Street is landlocked and is also of an overgrown nature.

- 3.5. Located adjacent the application site (no.66-72 Church Street) are two storey Grade II listed residential properties. Opposite the application site is the Grade II\* listed St Catherine's C of E Parish Church.

#### 4. Relevant Planning History

12/00164/FUL	Erection of two dwellings	Refused	02.05.2012
15/00007/LBC	Listed Building Consent for essential repairs to outbuilding including works to roof and supporting internal walls following damage caused by tree limb falling on to roof	Listed Building Consent	23.03.2015
16/00442/LBC	Listed building consent for the conversion of offices (B1a) to 5 flats (C3) including demolition of single storey rear extension, conversion of outbuilding to 1 dwelling and erection of 3 new dwellings	Pending Consideration	

#### 5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.

- 5.2. Neighbour contributions have been received from 10 addresses raising the following concerns:

- 1) Impact upon parking and traffic within the area
- 2) Impact upon privacy and noise disturbance
- 3) Impact during construction
- 4) Conflict and misleading nature of the application address and site description
- 5) Loss of wildlife
- 6) Impact upon foul sewage
- 7) Lack of waste provision
- 8) Risk of damage to Cedar Lawns and adjacent listed buildings
- 9) Impact upon the conservation area
- 10) Plans are misleading
- 11) Demolition of part of the outbuilding would impact on the character of the area
- 12) Structural risk during demolition
- 13) Overdevelopment and intensification of the area
- 14) Impact upon overlooking, loss of light and light pollution
- 15) Impact upon trees and landscaping
- 16) Development previously refused and dismissed at appeal
- 17) Loss of an open area
- 18) Demolition of listed wall not included in plans

## **6. Consultation**

### **6.1. No objection subject to conditions from the following:**

Severn Trent Water  
LCC Archaeology  
LCC Highways  
HBBC Conservation Officer

### **6.2. No objection from the following:**

LCC Drainage  
LCC Developer Contributions  
LCC Ecology  
HBBC Environmental Health (Pollution)  
HBBC Waste  
HBBC Drainage  
HBBC Compliance and Monitoring Officer  
HBBC Affordable Housing Officer  
Environment Agency

### **6.3. Burbage Parish Council initially objected on the following concerns, back land development, impact upon neighbouring properties and lack of parking. However, following the re-consultation of the amended scheme Burbage Parish Council have no objection subject to the works need to be sensitive and careful as to not cause any harm to the heritage asset.**

## **7. Policy**

### **7.1. Core Strategy (2009)**

- Policy 4 – Development in Burbage
- Policy 15 – Affordable Housing
- Policy 16 – Housing Density, Mix and Design
- Policy 19 – Green Space and Play Provision
- Policy 24 – Sustainable Design and Technology

### **7.2. Site Allocations and Development Management Policies DPD (2016)**

- Policy DM1 – Presumption in Favour of Sustainable Development
- Policy DM3 – Infrastructure and Delivery
- Policy DM7 – Preventing Pollution and Flooding
- Policy DM10 – Development and Design
- Policy DM11 – Protecting and Enhancing the Historic Environment
- Policy DM12 – Heritage Assets
- Policy DM13 – Preserving the Borough's Archaeology
- Policy DM17 – Highway Safety
- Policy DM18 – Vehicle Parking Standards

### **7.3. National Planning Policies and Guidance**

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

### **7.4. Other relevant guidance**

- The Setting of Heritage Assets (Historic England)
- Burbage Conservation Area Appraisal and Map

## **8. Appraisal**

### **8.1. Key Issues**

- Assessment against strategic planning policies
- Impact upon the character of the area, listed building and conservation area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Impact upon ecology
- Impact upon archaeology
- Trees and landscaping
- Drainage
- Developer Contributions
- Affordable Housing
- Other issues

#### Assessment against strategic planning policies

- 8.2. Paragraphs 11-13 of the National Planning Policy Framework (NPPF) state that the development plan is the starting point for decision making. The NPPF is a material consideration in determining applications. The development plan in this instance consists of the Site Allocations and Development Management Policies (SADMP) DPD (2016) and the Core Strategy (2009).
- 8.3. Policy DM1 of the adopted SADMP and paragraph 14 of the NPPF provide a presumption in favour of sustainable development with planning applications that accord with the policies in the Local Plan should be approved unless material considerations indicate otherwise.
- 8.4. The application site is located within the settlement boundary and conservation area of Burbage. Policy 4 of the Core Strategy identifies Burbage as a key centre where residential development is generally supported within the settlement boundary, subject to consideration of all other material planning considerations. Policy 4 also aims to support the Burbage local centre and ensure that the village's infrastructure can accommodate new development.
- 8.5. The existing building has a B1a use but is not identified as an allocated employment site and therefore Policy DM19 is not relevant to this application.
- 8.6. The development is sustainably located in regards to access to services, facilities and modes of public transport and therefore the principle of residential development is acceptable and in accordance with Policy 4 of the Core Strategy.

#### Impact upon the character of the area, listed building and conservation area

- 8.7. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it possesses. Section 72 of the Act states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.8. Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD seek to protect and enhance the historic environment and heritage assets. If the impact of any proposal causes harm to a heritage asset the benefits of the proposal must outweigh any harm caused. All proposals for the change of use,

extensions and alterations of listed buildings and development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting. Development proposals should ensure the significance of a conservation area is preserved and enhanced. Proposals which seek to improve identified neutral and negative areas inside designated conservation areas, which lead to the overall enhancement of the conservation area, will be supported and encouraged.

- 8.9. Section 12 of the National Planning Policy Framework provides the national policy on conserving and enhancing the historic environment. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (paragraph 132). The Setting of Heritage Assets guidance published by Historic England is also given due consideration during the determination of this application as the document sets out guidance on managing change within the setting of heritage assets.
- 8.10. Minor and moderate levels of harm are considered "less than substantial", and in accordance with Policy DM11 of the SADMP and paragraph 134 of the NPPF the harm caused by the proposal should be weighed against the public benefits. Recent case law has confirmed the considerable weight and importance that should be given to the desirability of preserving the significance of heritage assets when carrying out the balancing exercise in accordance with the statutory duty, and the finding of harm (including less than substantial) to a listed building and its setting or a conservation area gives rise to a strong presumption against planning permission being granted unless considerable public benefits or powerful material considerations clearly and demonstrably outweigh that harm.
- 8.11. Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits may include heritage benefits as specified in the Planning Practice Guidance (Conserving and enhancing the historic environment – paragraph 20), such as:
- Sustaining or enhancing the significance of a heritage asset and the contribution of its setting
  - Reducing or removing risks to a heritage asset
  - Securing the optimum viable use of a heritage asset in support of its long term conservation
- 8.12. Cedar Lawns is a Grade II listed building, the former house dates from the early-mid 19th century and is an imposing and substantial building with fine elevations. It is now in use as offices. The building also has a fine frontage with architectural detailing including a modillion cornice, stone window surrounds, and a round headed hood with a central panelled door with fanlight. The other elevations also have features of architectural interest including a grand rear elevation with bay window facing into a former garden, now essentially a courtyard.
- 8.13. The building includes an attached single storey service wing dating from the late 19th century with a historic and considerable boundary wall along Grove Road. A separate early-mid 19th century stable block and coach house range is located to the south of the site, this has been altered to provide covered car parking and garaging for the site. A brick wall attached to the block bounds the site from land to the rear of 66-72 Church Street (within the southern area of the application site).

- 8.14. The south of the site was historically an orchard but is now overgrown scrubland separate to the curtilage of Cedar Lawns. The associated grounds of the building, along with the historic brick walls and ancillary buildings make an important contribution to the overall significance of Cedar Lawns and its setting.
- 8.15. Cedar Lawns and its setting also contribute positively to the character and appearance and thus significance of Burbage Conservation Area. The application site, with the exception of the buildings on site, is identified as a key space within Burbage Conservation Area. The grounds are currently in a poor state, in part tarmacked and in part overgrown and unmaintained. The Conservation Area Appraisal identifies that Cedar Lawns together with neighbouring properties and the churchyard are important in providing significant greenery in the Conservation Area.
- 8.16. Two copper beech trees which were the most dominant and mature trees on the site have recently been granted consent to be felled. This has reduced the sites contribution to the 'significant greenery' in this area as identified in the Conservation Area appraisal dated November 2011.
- 8.17. A number of listed buildings including St Catherine's Church (Grade II\* listed), Archer Cottage (Grade II listed) and 66 Church Street (now subdivided to include 70 and 72 Church Street, all Grade II listed) are located within the vicinity of Cedar Lawns. This area comprises a distinctive character area within the conservation area and development at Cedar Lawns and within its grounds could be considered to be within the setting of these listed buildings.
- 8.18. The proposal is broken down into individual elements of work and an assessment of each is provided.

Alterations to main building, demolition of existing single storey extension and rebuilding of wall

- 8.19. Works to the side and rear of Cedar Lawns include rebuilding the solid brick boundary wall to Grove Road and demolishing the single storey service wing attached to Cedar Lawns. A building survey has been submitted with the application identifying that the boundary wall must be rebuilt due to structural problems. The lean to roof of the rear extension is supported by the brick boundary wall and therefore the extension would need to be demolished to allow for the rebuilding of the wall. The rebuilding of the wall would be on a like for like basis. The demolition of the extension, which was a later addition to the listed building, will allow the original building to be revealed and it is not considered that this would harm the character of the listed building. Additionally through the rebuilding of the wall the proposal seeks to retain the materials and rebuild the chimney which is a key feature within and outside the site with it being particularly visible from Grove Road.
- 8.20. The works of repair and restoration to the exterior of Cedar Lawns, accompanied with the proposal to reinstate the grandeur to the principal façade through landscaping works would enhance the architectural significance of the listed building and improve its physical condition thus reducing the risk posed to the building by a lack of maintenance. These are considerable heritage benefits. The change of use of the building back to residential use from offices is more sensitive to the original use of the building and is an appropriate step in seeking to secure the optimum viable use of the building in support of its long-term conservation. The positive impact of this is diluted by the subdivision of the building into flats rather than the building being reinstated as one residential unit as originally constructed.

- 8.21. This change of use could be considered a minor heritage benefit. The creation of the small formalised element of landscaping to the rear of Cedar Lawns is compatible with its setting and could be considered a minor heritage benefit given the lack of landscaping currently addressing this elevation.
- 8.22. It is recommended that in the interest of preserving the visual amenity of the conservation area, the demolition of the boundary wall and extension should not commence until a method statement for the works has been entered into and phasing scheme for the works has been devised, and until a programme of historic building recording (to an appropriate level) has been devised and undertaken to ensure satisfactory recording of the extension.

#### Conversion of outbuilding to one dwelling (Plot 1)

- 8.23. The ancillary outbuilding is proposed to be converted into a 3 bed roomed 1 and ½ storey property. All of the existing openings on the front of the building are to be retained in their original size and location and the proposed materials, including timber panels, reflect the character of the building. The proposal would use the roofspace of the building but would not increase the height of the proposal. The works to facilitate the conversion of the ancillary outbuilding are appropriate and compatible with the significance of this curtilage listed building. It is therefore considered that the sensitive conversion proposed, subject to details secured by condition, such as a method statement and materials, would not harm the character of the curtilage listed building or the setting of Cedar Lawns or the surrounding Listed Buildings and Burbage Conservation Area.

#### Erection of one dwelling (Plot 2)

- 8.24. The proposed 3 bed 1 and ½ storey dwelling is located next to the existing outbuilding. The design and detailing of the new dwelling and the materials proposed reflect the characteristics of the neighbouring outbuilding. The one and a half storey scale of the dwelling does not dominate the rear of the site. The currently undeveloped land to the rear of 66-72 Church Street would have limited encroachment from built development and will mainly form rear gardens and parking areas, reflecting its historical openness. Car parking and access would be provided to the rear of the dwelling.
- 8.25. The erection of a building in a current open space would result in some harm; however the design of the building with a one and a half storey height ensures it remains subservient to Cedar Lawns and in keeping with the existing outbuilding. Additionally this forms part of a comprehensive redevelopment of the site, which includes a landscaping scheme to enhance the overall character of the grounds of Cedar Lawns from its current poor state. It is therefore considered that the erection of a one and a half storey dwelling would lead to less than substantial harm and the landscape improvements to the whole site would result in a significant benefit to the site.

#### Erection of two semi detached bungalows (Plot 3 and 4)

- 8.26. The semi-detached bungalows are to be located to the rear of the site, perpendicular to the Grove Road boundary wall and parallel to the boundary to no. 1 Grove Road. The design of the bungalows reflects the characteristics of the outbuilding on the site. The bungalows have been located further within the site away from the setting of the listed building giving more private amenity space to the occupiers of Cedar Lawns. Due to the single storey height of the new block, its

footprint and mass is not overpowering. The single storey scale also ensures the proposed dwellings are not readily visible from the Conservation Area, retaining the existing character of the Conservation Area and not dominating the existing wall. The proposed bungalows would have similar design features matching that of the outbuilding. Dentil eaves would be provided to the gable end of the bungalow facing towards Grove Road. Therefore when viewing the site from Grove Road, the detailing would add a design feature, in keeping with that of the rest of the site.

#### Widening of access, boundary treatments and landscaping

- 8.27. To the front of Cedar Lawns there is a low red brick wall with stone cappings and pillars which encloses a small amenity area. Decorative wrought iron pillars flank the entrance pathway and the railings are proposed to be reinstated, the style is to be agreed and a condition is included to secure this. The small amenity area is laid to gravel but is poorly maintained, it is proposed to landscape this area with shrubs, gravel and a hedgerow behind the wall. The ivy spreading over the front elevation is to be removed, accompanied with the removal of a semi-mature tree to the front of Cedar Lawns that obscures part of the building. The installation of the railings, landscaping of the amenity area and removal of the tree would reinstate some of the grandeur to the principle façade and allow for a greater appreciation of the significance of the Cedar Lawns.
- 8.28. To the side of the vehicular entrance to the site is a high red brick wall. A small section of the wall is proposed to be demolished to allow for improved visibility for the access. The majority of the wall would be retained and the three semi-mature trees within the space are to be retained. To the rear of the wall adjacent to the neighbouring property a bin store is proposed which is bound by a brick wall with gated access. Due to the low level nature of this and the existing high boundary wall this would be well hidden from main public views and would therefore not cause harm to the setting of the listed building and adjacent listed buildings and conservation area. The proposed materials, location and boundary treatments of the bin store would be in keeping with the character of the conservation area and listed buildings both within and adjacent the application site.
- 8.29. A new driveway gate is proposed, set back from the existing gate posts and level with the frontage of Cedar Lawns. The gate would be of a style and material to match the railings to be installed at the frontage. The open aspect of such a style of gate would ensure glimpses through the site remain.
- 8.30. Due to the size of the new build block and its accompanying servicing areas, including car parking, there would be a physical loss to the extent of the undeveloped and verdant grounds to Cedar Lawns. An indicative landscaping scheme has been submitted which demonstrates that there can be small areas laid to lawn located to the rear of the new build, areas of soft landscaping to the front, and a landscaped area bound by a brick wall around the rear and side elevations of Cedar Lawns to give a formalised section of garden.
- 8.31. The loss of undeveloped and green space in the grounds of Cedar Lawns clearly weighs against this proposal; however, this could be offset to have a neutral impact as the quality of landscaping within the grounds would be improved. The proposal would create a formalised landscape area to Cedar Lawns, which it is currently lacking and would therefore provide a greater appreciation of its distinguished garden façade. It is considered that the appropriate scale and design of the new bungalows and associated landscaping would have no detrimental impact on the

setting of Cedar Lawns and would be compatible with the significance of the building.

- 8.32. The separate land to the rear of 66-72 Church Street is to be used as gardens, parking and access to serve the new dwelling and converted outbuilding. This land was a former orchard but currently has no trees and is of poor quality with a scrub like appearance. The landscaping scheme suggests that the gardens would be laid to lawn with a number of specimen trees planted along the boundaries. This land would have a green character and the appearance of the land can be maintained through its use as gardens for the new dwelling and converted outbuilding. There is the potential for a range of specimens to be planted that reflect the historical use of the land as an orchard and the planting of semi-mature trees would reflect the rural character of the conservation area. Such planting is suggested as a means of an enhancement of this section of the conservation area. Further to this, the access to the parking and turning area to this part of the application would be bounded by a dwarf wall, railing and hedging which would provide a soft appearance; this would be secured by condition.
- 8.33. An appeal for the erection of two dwellings on this land was dismissed in 2013 (12/00164/FUL) for reasons including the detrimental impact on the character and appearance of the conservation area. There is a difference between the dismissed appeal and the current application in that no new dwellings are proposed for this land to the rear of 66-72 Church Street.
- 8.34. The land slopes up to the rear of the site with Grove Road to the north set lower than the application site. To ensure the levels of the proposed buildings are in keeping with the existing buildings on site, a suitably worded condition is recommended requiring existing and proposed levels to be submitted prior to commencement.
- 8.35. Acceptable amenity space is provided to the rear of the flats, rear of the semi-detached bungalows and rear of the outbuilding conversion and new build.
- 8.36. Due to the sensitivity of the proposals, a condition is recommended to remove permitted development rights for development within the curtilage of the new dwelling, converted outbuilding and new bungalows, to ensure verdant character of the gardens is preserved.
- 8.37. The landscaping scheme shows a large number of improvements to the site, including additional planting and landscaping to all areas of the application site. It shows that benefits can be achieved through an appropriate landscaping scheme which outweighs any harm arising from the development. To ensure that the benefits are carried out, a full and detailed landscaping scheme including different specimen types is to be submitted and secured by condition.

#### Impact upon the setting of adjacent listed buildings

- 8.38. The frontage of the site could be considered to be within the setting of the grade II\* listed St Catherine's Church and grade II listed Archer Cottage, both located opposite Cedar Lawns and comprising part of a distinctive character area within the conservation area. By virtue of the works to the front elevation of Cedar Lawns and the site frontage being appropriate there would be no detrimental impact on the setting of these listed buildings. The further works within the site would not be easily read within the setting of St Catherine's Church and Archer Cottage and would not harm the setting of these listed buildings.

- 8.39. No's. 66-72 Church Street (grade II listed as 66 Church Street but recently converted into 3 separate properties during renovations) are adjacent to Cedar Lawns. The proposal to use the land to the rear of these properties as gardens for the proposed dwellings fall within their setting. There are small gardens and yards serving each property, with the land further to the rear separate and not in use as gardens given its scrub like appearance. This separation may not always have been the case, and the land is likely to be closely associated with 66-72 Church Street. Even with its current appearance the land has always had a verdant character (historically being an orchard) which contributes positively to the setting of the buildings, and this positive contribution and verdant character would be maintained through the proposed use as gardens and landscaping, thus there would be no detrimental impact on the setting of the listed buildings and the development would retain the character of the conservation area.

### Conclusion

- 8.40. Overall, the works comprise some minor alterations to and reinstatement of the original plan form of the Grade II listed Cedar Lawns which would have a neutral impact on its significance. The creation of a formalised element of landscaping to the rear of Cedar Lawns is compatible with its setting. The rebuilding of the external wall to Grove Road and retention of feature chimney would have a neutral impact on the significance of Cedar Lawns and preserve the significance of the conservation area.
- 8.41. The works to facilitate the conversion of the ancillary outbuilding are appropriate and compatible with the significance of this curtilage listed building. The scale and appearance of the new bungalows and dwelling are appropriate and compatible to the character of the area, including the setting of Cedar Lawns. All works and development proposed ensure there would be no detrimental impact on the setting of the other listed buildings within the vicinity of Cedar Lawns.
- 8.42. The proposal provides the opportunity of increasing the quality of landscaping within the grounds of Cedar Lawns to preserve the verdant character of the conservation area and the setting of the listed building. The proposal also provides the opportunity to provide an enhancement on the current condition of the land to the rear of 66-72 Church Street through the proposed use of part of the land as garden. As high quality landscaping can be achieved, secured via a condition, then the significance of Cedar Lawns and the conservation area can be sustained and enhanced which is considered a heritage benefit.
- 8.43. Some of the works and development proposed as part of the application are compatible with the Grade II listed Cedar Lawns and its setting and preserve the significance of the conservation area. The removal of a small amount of the internal historic fabric of Cedar Lawns, the demolition of the attached single storey rear extension and curtilage wall attached to the ancillary outbuilding, and the loss of undeveloped green space and two semi-mature trees by developing the grounds of Cedar Lawns would cause less than substantial harm to the listed building, its setting, and the conservation area. Heritage benefits that flow from the proposal include works of repair and restoration to the exterior of Cedar Lawns and appropriate landscaping which would enhance its significance and setting alongside improving its physical condition thus reducing the risk posed to the building by its current lack of maintenance. The change of use of the building back to residential is a more appropriate means by which to secure the optimum viable use of the building in support of its long-term conservation. To ensure that the refurbishment of the listed building is carried out, a condition is recommended to ensure that the

works are carried out prior to the occupation of the fourth dwelling. The proposal provides the opportunity of increasing the quality of landscaping within the grounds of Cedar Lawns to sustain the character of the conservation area and enhance the setting of the listed building.

- 8.44. It is therefore considered that the proposal provides public benefits to the sites contribution to the conservation area, setting of other listed buildings and securing the optimum viable use of the listed building and improvements to the wider site which outweigh the less than substantial harm. Therefore it is considered that the proposal is in accordance with Policy DM11 of the SADMP and paragraph 134 of the NPPF. The works are compatible with the significance of the Grade II listed Cedar Lawns and its setting, and subject to the submission of an appropriate landscaping scheme would preserve the significance of the Burbage Conservation Area and therefore the proposal complies with Policy DM12 of the SADMP. In making the above assessment special regard has been had and special attention has been paid to the duties of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and great weight has been given to the conservation of heritage assets in compliance with paragraph 132 of the NPPF.

Impact upon the character of the area

- 8.45. Policy DM10 of the Site Allocations and Development Management Policies DPD seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. This is supported by paragraph 17 of the NPPF which seeks to ensure a high quality of design. Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development. Paragraph 58 seeks to ensure that development responds to local character and reflects the identity of local surroundings.
- 8.46. This application proposes the conversion of the offices to 5 flats with 4 new dwellings proposed to the rear of the site. During the course of the application, amended plans were received addressing officer concerns regarding the number of dwellings, the layout of the site and landscaping. As a result, the number of dwellings was reduced from 12 to 9 and additional changes to the site layout and further landscaping changes were received.
- 8.47. The 5 flats proposed for the main building would have a large amount of communal amenity space provided to the rear of the building with the two semi-detached bungalows located further to the rear of the site. Parking would be provided between this amenity space and the proposed bungalows adjacent the boundary wall to Grove Road. This results in an appropriate separation distance from the bungalows to the rear garden of the listed buildings.
- 8.48. The site access would have a curved entrance road with further parking located on the land to the rear of the gardens of no. 66-72 Church Street. The proposed conversion would use the existing outbuilding with a minor demolition of part of the outbuilding. The proposed detached dwelling would have a front elevation that would be set level with the outbuilding conversion and perpendicular to the semi-detached bungalows. A proposed canopy would link the new dwelling to the semi-detached bungalows, providing a continuation of the footprint of the site. The four new dwellings proposed within the rear of the site would all sit well in relation to each other, providing a courtyard aspect that would be subordinate and subservient to the listed building. Appropriate amenity space would be provided to the rear of the 4 new dwellings.

- 8.49. Overall the proposed dwellings would sit well within the site and complement each other, providing an overall contribution to the character of the area. It is considered that the layout, scale, appearance and landscaping are acceptable with regards to the impact on the character of the area in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.50. Policy DM10 of the SADMP state that proposals should not adversely affect the occupiers of the neighbouring properties.
- 8.51. No. 70-72 Church Street is located to the south of the application site adjacent to the existing outbuilding. No changes in height are proposed to the outbuilding and there would be no changes or new windows proposed to the rear elevation which borders the rear garden of no. 70-72. All windows would be located on the ground floor of the outbuilding and as such would have no impact upon overlooking to no. 70-72. Therefore there would be no impact upon overlooking or loss of light from the proposed outbuilding conversion.
- 8.52. The proposed new build to the south west of the site would be sited approximately 12.5 metres from the rear boundary of the nos. 66-72 Church Street. Two windows are located on the side elevation of the new build facing towards nos. 66-72, however they would both be obscure glazed and the window on the first would be non-opening, this would be secured by condition. Due to the distance from the rear gardens and the orientation of the building, the proposed new dwelling would have no impact upon the residential amenity of no. 66-72 in respect of loss of light or overlooking.
- 8.53. Located to the south of the application site is a bowling green and located to the south west of the site is a car park and garages associated with the properties fronting Grove Road and New Road. The proposed two storey new build would be located level with the rear elevation of no. 1 Grove Road, a two storey terraced property. Roof lights are proposed to the rear elevation of the proposed dwelling, however these would be level with and overlook the car park and garages and the bowling green, and as such there would be no impact upon residential amenity. Three roof lights are proposed to the front roof slope of the proposed dwelling; however they would be sited so as not to overlook the rear garden of no. 1 Grove Road.
- 8.54. The proposed semi-detached bungalows would be located to the west of the application site, adjacent the existing boundary fence and side elevation to no. 1 Grove Road. The proposed height of the bungalows would be higher than the existing fence and would only partly be visible from Grove Road. As a result of the single storey nature and the bungalows sited adjacent the front parking area and blank side elevation to no. 1 Grove Road, there would be no impact upon the residential amenity of the neighbouring properties on Grove Road in respect of loss of light, overbearing or overlooking.
- 8.55. No new openings are proposed to the main building, only a replacement window to the side elevation to Grove Road. As a result of the siting of the main building and the distance and siting of the adjacent residential properties, it is not anticipated that any habitable windows within the main building would result in any overlooking impacts upon neighbouring residential properties, the new residential properties within the site or vice versa.
- 8.56. The amenity space provided for the flats would be located to the rear of the main building within a private area. The amenity space for the conversion, and new builds

would all be situated to the rear of their respective buildings providing adequate amenity space and sunlight to all gardens.

- 8.57. Therefore the proposal is considered to comply with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.58. Policy DM17 and DM18 of the SADMP states that proposals should ensure that there is adequate provision for on and off street parking for residents and visitors and there is no impact upon highway safety.
- 8.59. The proposed access to the site is from Church Street, using an existing access adjacent to the main building. Currently there is no formalised parking area and as part of this application it is proposed to formalise parking spaces within the site. At this point of Church Street, the road has a 20 mph speed limit.
- 8.60. There would be 3 x 1 bedroom flats and 2 x 2 bedroom flats in the main building, both the conversion and detached new build would have 3 bedrooms and the 2 x 2 semi-detached bungalows are to have 2 bedrooms each. There would be a total of 11 parking spaces.
- 8.61. Revised plans have been received amending the size of the parking spaces to be in accordance with the minimum size of parking spaces, creating an additional parking space and increasing the width of the access.
- 8.62. The site is located within the centre of Burbage close to a number of transport services. The proposal provides one parking space for each of the 1 and 2 bedroomed properties within the scheme and two parking spaces for the 2 x 3 bedroomed properties. Therefore 11 unallocated parking spaces would be provided within the site. Initially Leicestershire County Council (LCC) Highways suggested 13 parking spaces, however additional parking would result in the loss of soft landscaping in the site and would lead to a harm to the setting of the listed building. Therefore following amended plans LCC Highways have accepted the provision of 11 parking spaces and do not object to the parking provision on site.
- 8.63. The access to the site has been slightly increased by removing part of the brick wall to the front of the site. Therefore the access to the site would have a width of 4.8 metres for a minimum distance of 5 metres behind the highway boundary in accordance with Leicestershire County Council's 6c's design guidance. Therefore vehicles entering and leaving the site would be able to pass each other clear of the highway and not cause a detriment to the highway. Gates are proposed to the entrance of the site, however these are set back approximately 6 metres and would therefore allow vehicles to pull in clear of the highway.
- 8.64. The tree located to the front of the main building would be removed as part of this application with new railings proposed to the front of the site. As a result there would be adequate vehicle and pedestrian visibility distances when leaving the site in accordance Leicestershire County Council's 6c's design guidance.
- 8.65. LCC Highways have assessed and considered the application and have stated that the residual cumulative impacts of the development can be mitigated by condition and are not considered severe in accordance with Paragraph 22 of the NPPF. They stated it could not be demonstrated that the proposal would result in a severe increase in traffic visiting the site.
- 8.66. The proposals would not have an adverse impact upon highway safety and would therefore be in accordance with Policy DM17 and DM18 of the SADMP.

#### Impact upon ecology

- 8.67. DM6 of the SADMP seeks to ensure that development proposals demonstrate how they conserve and enhance features of nature conservation and geological value including proposals for their long term future management. The removal or damage of such features shall only be acceptable where it can be demonstrated that the proposal will result in no net loss of biodiversity and where the integrity of local ecological networks can be secured.
- 8.68. As the proposal involves the roof space of the converted outbuilding, a bat survey has been requested by LCC Ecology in accordance with OPDM 2006/05. As the bat survey found no evidence of bats, no further surveys or mitigation is required. Therefore the proposal would be in accordance with Policy DM6 of the SADMP.

#### Impact upon archaeology

- 8.69. Leicestershire County Council Archaeology have been consulted but has no objection subject to conditions.
- 8.70. In order to preserve the importance and heritage aspect of the existing buildings located on the site, a historic building survey and a Written Scheme of Investigation must be submitted prior to commencement. It is recommended that this be secured by condition.

#### Trees and landscaping

- 8.71. A number of trees are to be removed from the site as part of the development, including the existing tree located to the front of the main building and the ivy which is spreading across the front elevation. The removal of this semi-mature tree and the ivy, would reveal the existing front elevation and reinstate some of the grandeur to the principle façade and allow for a greater appreciation of the significance of the Cedar Lawns. The benefit to the listed building is therefore considered to outweigh the loss of the tree especially given the replacement tree planting across the site as a whole which would be secured by condition.
- 8.72. Two further trees are to be removed within the rear of the site, however these are of no merit and do not significantly add to the character of the conservation area.
- 8.73. The layout of the development ensures that there are significant areas available for landscaping including new boundary hedge and replacement tree planting. These landscape improvement would be visible from public vantage points around the site and would enhance the appearance of the site and character of the conservation area and are in accordance with Policy DM10

#### Drainage

- 8.74. Policy DM7 of the SADMP states that adverse impacts from pollution and flooding will be prevented by ensuring that the development does not create or exacerbate flooding. Paragraph 103 of the NPPF requires that development does not increase flood risk elsewhere.
- 8.75. No issues or objections have been raised, however as a result of the formalising of the car park, a condition is recommended to ensure there is no impact from surface water drainage.

#### Developer Contributions

- 8.76. Policy 19 of the Core Strategy and Policy DM3 of the SADMP requires new residential development to contribute towards the provision and maintenance of

public play and open space facilities for children. However, Paragraph: 031 Reference ID: 23b-031-20160519 of the Planning Practice Guidance, which is a material consideration, notes that tariff style planning obligations should not be sought for developments of 10 units or less and which have a maximum combined gross floor space of no more than 1000sqm. In light of the guidance in the PPG and as a result of amended plans reducing the number of proposed dwellings to 9 and reduction in floor space below 1000sqm, a contribution towards play and open space provision is not being sought.

#### Affordable Housing

- 8.77. Following amendments to national planning guidance, affordable housing contributions can no longer be sought on schemes of less than 10 dwellings, therefore notwithstanding Policy DM3 of the adopted SADMP, and as a result of the amended scheme resulting in the reduction of the number of dwellings, no contribution has been pursued in this case.

#### Other issues

- 8.78. Concerns have arisen regarding the site description, site address and plans being misleading. The applicant has submitted a site location plan which includes all land associated with Cedar Lawns and the piece of landlocked land to the south west of the site. All proposed works, alterations and new buildings are to be carried out in the land associated with Cedar Lawns and the ownership of the land to the rear of no. 66 is a civil matter and is not a material planning consideration.
- 8.79. Concerns have arisen regarding impact during construction. It is not considered that the construction of the scheme would have a detrimental impact to the surrounding area/neighbours that would warrant any further measures of protection to be in place.

### **9. Equality Implications**

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

### **10. Conclusion**

- 10.1. The proposal is located within the settlement boundary for Burbage and therefore there is a presumption in favour of sustainable development as set out in Policy DM1 and the wider policies of the NPPF.
- 10.2. It is considered that the proposal would result in significant public benefits due to the return of a listed building back into optimum use, substantial improvements and

repair to the existing buildings and improvements and maintenance of the remainder of the site including substantial landscape improvements and tree planting. The improvements to the building and design of the new dwellings would lead to significant improvements to the setting of the listed building and the enhancement of the character and appearance of the Burbage Conservation Area.

- 10.3. These positive aspects need to be weighed against the demolition of part of the listed building and the introduction of additional buildings within the curtilage of the listed building. The Council has 1) Identified which heritage assets and their settings are affected; 2) Assessed whether, how and to what degree these settings make a contribution to the significance of the heritage assets; 3) Assessed the effects of the proposed development, whether beneficial or harmful, on that significance; 4) Explored the way to maximise enhancement and avoid or minimise harm. When considering the significance of the heritage assets it is considered the impact would be less than substantial. In weighing the less than substantial harm against those benefits in accordance with Paragraphs 133 and 134 of the NPPF, it is concluded that the public benefits outweigh the harm.
- 10.4. The proposal would also respect the scale and character of the existing building and street scene and would not adversely affect the amenities of the occupiers of neighbouring properties and it is assessed that the proposal would not have an adverse impact upon highway safety. The proposal is considered to be sustainable development in accordance with Policies DM1 of the SADMP together with paragraph 14 of the NPPF.
- 10.5. The NPPF states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted. The development is in accordance with Policy DM1, DM3, DM7, DM10, DM11, DM12, DM13 DM17 and DM18 of the Council's adopted Site Allocations and Development Management Policies Development Plan Document and there are no material considerations that indicate that these should not apply. The application is therefore recommended for approval subject to conditions.

## **11. Recommendation**

### **11.1. Grant planning permission subject to:**

- Planning conditions outlined at the end of this report.

### **11.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions.**

### **11.3. Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Proposed Elevations Drg. No. 16/20/10 Rev. A (scale 1:100) and Proposed Floor Plans Drg. No. 16/20/04 Rev. A (scale 1:100) received by the Local Planning Authority on 8 September 2016,

Proposed Outbuilding Conversion, Drg. No. 16/20/12 Rev. C (scale 1:100) and Proposed Bungalows, Drg. No. 16/20/13 Rev. B (scale 1:100) received by the Local Planning Authority on 7 February 2017 and

Proposed House Drg. No. 16/20/15 Rev. A (scale 1:100), Block Plan Drg. No. 16/20/05 Rev. G (scale 1:200) and Site Plan Drg. No. 16/20/14 Rev. D (scale 1:200) received by the Local Planning Authority on 8 February 2017.

**Reason:** To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

3. Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposal and the hard landscaped areas shall be deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document.

4. No development shall take place within the application site until a programme of archaeological work including a historic building survey (Historic England Level 3) defined within a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. No works shall take place other than in accordance with the approved Written Scheme of Investigation.

**Reason:** To allow proper investigation and recording of the site, which is potentially of archaeological and historic significance in accordance with Policy DM11, DM12 and DM13 of the adopted Site Allocations Development Management Policies Development Plan Document.

5. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 4 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

**Reason:** To allow proper investigation and recording of the site, which is potentially of archaeological and historic significance in accordance with Policy DM11, DM12 and DM13 of the adopted Site Allocations Development Management Policies Development Plan Document.

6. No development shall commence until a method statement for the rebuilding of the external wall to Grove Road and the retention of the feature chimney have been submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the development is first brought into use.

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document.

7. No development shall commence until a phasing scheme, which shall include a timetable for the scheduling of demolition and construction works for each phase, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the agreed timetable of works.

**Reason:** To preserve the setting of Cedar Lawns, and to preserve the character and appearance of the Burbage Conservation Area in the interests of visual amenity, to accord with Policies DM10 and DM12 of the Site Allocations and Development Management Policies Development Plan Document.

8. No development shall commence until drainage details for the disposal of surface water and foul sewage have been submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the development is first brought into use.

**Reason:** To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 shall not be carried out, on any dwelling hereby approved, unless planning permission for such development has first been granted by the Local Planning Authority.

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document.

10. Prior to first occupation of any dwelling hereby approved, parking and turning facilities, as shown on approved drawing Block Plan Drg. No. 16/20/05 Rev. G (scale 1:200) and Site Plan Drg. No. 16/20/14 Rev. D (scale 1:200) received by the Local Planning Authority on 08 February 2017 shall be provided, hard surfaced and made available for use within the site in order to allow vehicles to enter, park, and leave in a forward direction. The parking spaces and turning area so provided shall not be obstructed and shall thereafter be permanently so maintained.

**Reason:** To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users and to ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area in accordance

with Policy DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

11. No development shall take place until a scheme of hard and soft landscaping works, to include the following:

- boundary treatments for the site frontage and all other external boundaries;
- boundary treatment for the flats and new dwellings;
- hard and soft landscaping proposals for all the communal areas and land adjacent to the access drive;
- details of the species types and location of the extra heavy standard trees to be planted

have been submitted to and approved in writing by the local planning authority. Once approved the scheme shall be carried out in accordance with the approved landscaping scheme.

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policy DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document.

12. All hard landscaping, planting, seeding or turfing approved under condition 11 shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of a similar size and species.

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policy DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document.

13. No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with approved proposed ground levels and finished floor levels.

**Reason:** To ensure that the development has a satisfactory appearance to accord with Policy DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document.

14. There shall be no occupation of the fourth dwelling authorised to be constructed pursuant to the planning permission unless and until the works of alteration and refurbishment to Cedar Lawns have been completed in accordance with plans reference Proposed Elevations Drg. No. 16/20/10 Rev. A (scale 1:100) and Proposed Floor Plans Drg. No. 16/20/04 Rev. A (scale 1:100) received by the Local Planning Authority on 08 September 2016.

**Reason:** To ensure that the development has a satisfactory appearance to accord with Policy DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document.

15. The bathroom window to the side (south) elevation of plot 2 shall be fitted with obscure glazing to level 3 of the Pilkington Scale or above and shall thereafter be permanently retained in this approved form.

**Reason:** To ensure the development does not have a detrimental impact upon neighbouring residential amenity to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

16. The bedroom window to the side (south) elevation of plot 2 shall be fitted with obscure glazing to level 3 of the Pilkington Scale or above and shall be non-opening and shall thereafter be permanently retained in this approved form.

**Reason:** To ensure the development does not have a detrimental impact upon neighbouring residential amenity to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

#### 11.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager- (telephone 0116 3050001).
3. This planning permission does NOT allow you to carry out access alterations in the highway. Before such work can begin, separate permits or agreements will be required under the Highways Act 1980 from the Infrastructure Planning team. For further information, including contact details, you are advised to visit the County Council website: - see Part 6 of the '6Cs Design Guide' at [www.leics.gov.uk/6csdg](http://www.leics.gov.uk/6csdg).
4. If the applicants do not wish to seek adoption of the roads, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see [www.leics.gov.uk/htd](http://www.leics.gov.uk/htd) or phone 0116 3057198.
5. If you intend to provide temporary directional signing to your proposed development, you must ensure that prior approval is obtained from the County Council's Highway Manager for the size, design and location of any sign in the highway. It is likely that any sign erected in the Highway without prior approval will be removed. Before you draw up a scheme, the Highway Managers' staff (tel: 0116 3050001) will be happy to give informal advice concerning the number of signs and the locations where they are likely to be acceptable. This will reduce the amount of your abortive sign design work.

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Planning Committee 28 February 2017  
Report of the Head of Planning and Development

Planning Ref: 16/00442/LBC  
Applicant: Mr R Morris  
Ward: Burbage St Catherines & Lash Hill

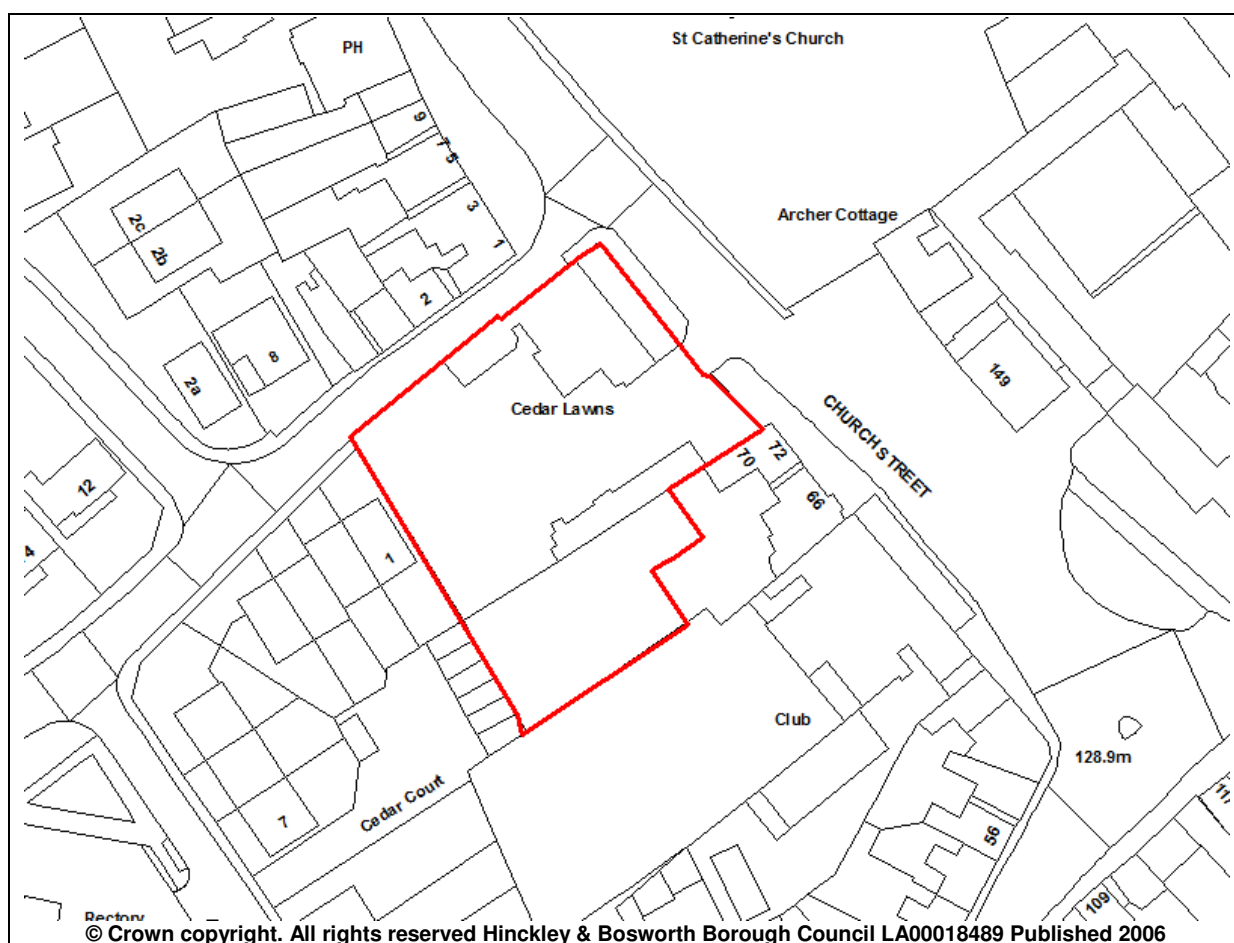


Hinckley & Bosworth  
Borough Council

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Site: Cedar Lawns Church Street Burbage

Proposal: Listed building consent for the conversion of offices (B1a) to 5 flats (C3) including demolition of single storey rear extension, conversion of outbuilding to 1 dwelling



## 1. Recommendations

### 1.1. Grant listed building consent subject to:

- Planning conditions outlined at the end of this report.

### 1.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions.

## 2. Planning Application Description

### 2.1. This application seeks listed building consent for the conversion of the existing building from offices to 5 flats and the conversion of the existing outbuilding to 1 dwelling. The proposal also includes the demolition of the single storey rear extension to the main building and part demolition of the outbuilding.

- 2.2. There would be 3 x 1 bedroom flats and 2 x 2 bedroom flats in the main building, and the conversion would have 3 bedrooms.
- 2.3. No significant changes or alterations are proposed to the external elevations of the main building. A new AOV (automatic opening vent) rooflight with a minimum opening of 1m<sup>2</sup> is proposed to the front roof slope, the existing roof light to the rear roof slope would be removed, the existing window on the side elevation to Grove Road would be replaced with a new heritage style timber framed window and a new external grade door to be fitted into the existing opening on the rear elevation. A number of internal changes are proposed to the main building with new stud walls proposed to the internal rooms and the removal of certain internal walls. This application also includes the demolition and the re-building of the boundary wall adjacent Grove Road.
- 2.4. A design and access statement, heritage statement and a photographic survey have all been submitted to support the application.
- 2.5. The proposed conversion, demolition of part of the building and erection of 4 new dwellings is also subject to a separate application (ref: 16/00441/FUL).

### **3. Description of the Site and Surrounding Area**

- 3.1. The application site is located within the settlement boundary and conservation area of Burbage. The application site is located on the junction of Church Street and Grove Road and is sited adjacent a number of residential properties.
- 3.2. The main building, Cedar Lawns is a large three storey Grade II building listed in 1989. The main building was a former house, built in early to mid 19<sup>th</sup> Century with red brickwork with cement dressings and a parapet to Swithland slate roof with four ridge stacks. To the front of the property, there is a regular 3 window style with moulded still brackets on the first and second floor and square bays on the ground floor. There is a central panelled door with a fanlight under a round headed hood build in late 19<sup>th</sup> Century.
- 3.3. Four large mature trees are located to the front of the site which limits the application site from view. The main building is currently used as an office with storage located within the existing outbuilding. Car ports are provided in the existing outbuilding with an un-formalised car parking arrangement provided in the rear of the site.
- 3.4. The application site is currently of an overgrown nature with the rear garden having a shrub like appearance. As a result of the overgrown areas, the boundary wall adjoining the land to the rear of no. 66-72 Church Street is not visible from the site. This area of land to the rear of no. 66-72 Church Street is landlocked and is also of an overgrown nature.
- 3.5. Located adjacent the application site (no. 66-72 Church Street) are two storey Grade II listed residential properties. Opposite the application site is the Grade II\* listed St Catherines C of E Parish Church.

#### **4. Relevant Planning History**

12/00164/FUL	Erection of two dwellings	Refused	02.05.2012
15/00007/LBC	Listed Building Consent for essential repairs to outbuilding including works to roof and supporting internal walls following damage caused by tree limb falling on to roof.	Listed Building Consent	23.03.2015
16/00441/FUL	Conversion of offices (B1a) to 5 flats (C3) including demolition of single storey rear extension, conversion of outbuilding to 1 dwelling and erection of 3 new dwellings	Pending Consideration	

#### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. Neighbour contributions have been received from seven addresses raising the following concerns:
- 5.3.
- 1) Impact upon parking and traffic within the area
  - 2) Impact upon privacy and noise disturbance
  - 3) Impact during construction
  - 4) Conflict and misleading nature of the application address and site description
  - 5) Loss of wildlife
  - 6) Impact upon foul sewage
  - 7) Lack of waste provision
  - 8) Risk of damage to Cedar Lawns and adjacent listed buildings
  - 9) Impact upon the conservation area
  - 10) Plans are misleading
  - 11) Demolition of part of the outbuilding would impact on the character of the area
  - 12) Structural risk during demolition
  - 13) Overdevelopment and intensification of the area
  - 14) Impact upon overlooking, loss of light and light pollution
  - 15) Impact upon trees and landscaping
  - 16) Development previously refused and dismissed at appeal
  - 17) Loss of an open area
  - 18) Demolition of listed wall not included in plans

#### **6. Consultation**

- 6.1. No objection subject to conditions from the following:

HBBC Conservation Officer  
LCC Archaeology

- 6.2. Objections received from the following:  
Georgian Group  
Victorian Society
- 6.3. Burbage Parish Council initially objected on the following concerns, back land development, impact upon neighbouring properties and lack of parking. However, following the re-consultation of the amended scheme Burbage Parish Council have no objection subject to the works need to be sensitive and careful as to not cause any harm to the heritage asset.
- 6.4. Historic England have no objection subject to consideration that the public benefits outweigh the harm which may be associated with the proposal.

## **7. Policy**

- 7.1. Site Allocations and Development Management Policies DPD (2016)
- Policy DM11 – Protecting and Enhancing the Historic Environment
  - Policy DM12 – Heritage Assets
- 7.2. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
  - Planning Practice Guidance (PPG)
  - Section 66 and 72(1) of the Planning (Listed Buildings and Conservation Area) Act 1990
- 7.3. Other relevant guidance
- The Setting of Heritage Assets (Historic England)

## **8. Appraisal**

- 8.1. Key Issues
- Assessment against strategic planning policies
  - Impact upon the Grade II Listed Building and its setting

### Assessment against strategic planning policies

- 8.2. Policies DM11 and DM12 of the emerging SADMP and Section 12 of the NPPF seek to conserve and enhance heritage assets in a manner according to their significance but support repair and alterations to listed buildings in principle where they would not detract from the architectural or historical character of the buildings or their setting. Therefore the main considerations with regards to this application are whether the proposed repair works/alterations would have any adverse impacts that would detract from the architectural or historical character of this Grade II listed building or its setting to an unacceptable degree.

### Impact upon the Grade II Listed Building and its setting

- 8.3. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it possesses. Section 72 of the Act states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

- 8.4. Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD seek to protect and enhance the historic environment and heritage assets. If the impact of any proposal causes harm to a heritage asset the benefits of the proposal must outweigh any harm caused. All proposals for the change of use, extensions and alterations of listed buildings and development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.
- 8.5. Section 12 of the National Planning Policy Framework provides the national policy on conserving and enhancing the historic environment. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (paragraph 132). The Setting of Heritage Assets guidance is also given due consideration during the determination of this application as the document sets out guidance on managing change within the setting of heritage assets.
- 8.6. Minor and moderate levels of harm are considered "less than substantial", and in accordance with Policy DM11 of the SADMP and paragraph 134 of the NPPF the harm caused by the proposal should be weighed against the public benefits. Recent case law has confirmed the considerable weight and importance that should be given to the desirability of preserving the significance of heritage assets when carrying out the balancing exercise in accordance with the statutory duty, and the finding of harm (including less than substantial) to a listed building and its setting or a conservation area gives rise to a strong presumption against planning permission being granted unless considerable public benefits or powerful material considerations clearly and demonstrably outweigh that harm.
- 8.7. Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the NPPF. Public benefits may include heritage benefits as specified in the Planning Practice Guidance (Conserving and enhancing the historic environment – paragraph 20), such as:
- Sustaining or enhancing the significance of a heritage asset and the contribution of its setting
  - Reducing or removing risks to a heritage asset
  - Securing the optimum viable use of a heritage asset in support of its long term conservation
- 8.8. Cedar Lawns is a Grade II listed building, the former house dates from the early-mid 19th century and is an imposing and substantial building with fine elevations. It is now in use as offices. The building also has a fine frontage with architectural detailing including a modillion cornice, stone window surrounds, and a round headed hood with a central panelled door with fanlight. The other elevations also have features of architectural interest including a grand rear elevation with bay window facing into a former garden, now essentially a courtyard.
- 8.9. The building includes an attached single storey service wing dating from the late 19th century with a historic and considerable boundary wall along Grove Road. A separate early-mid 19th century stable block and coach house range is located to the south of the site, this has been altered to provide covered car parking and garaging for the site. A brick wall attached to the block bounds the site from land to the rear of 66-72 Church Street (within the southern area of the application site).

- 8.10. The south of the site was historically an orchard but is now overgrown scrubland separated to the curtilage of Cedar Lawns. The associated grounds of the building, along with the historic brick walls and ancillary buildings make an important contribution to the overall significance of Cedar Lawns and its setting.
- 8.11. The impact of the proposal on the significance and its setting of the listed building is assessed within this report. The impacts of the proposed development on the character and appearance of the Burbage Conservation Area are assessed in the full planning application.

Alterations to main building, demolition of existing single storey extension and rebuilding of wall

- 8.12. To facilitate the conversion of Cedar Lawns various internal works are required. Internally, many historic internal features survive, including fireplaces, coving and architraves, picture rails, original skirting, a bell pull, decorative doors with fanlights, a principal decorative staircase, and timber window shutters and panels. The historic floor plan of the house is still discernible despite its current use as offices, with a central entrance foyer with staircase accessed through the main door flanked by two reception rooms and a large room with bay windows facing out into the garden. The principal rooms are also discernible on the upper floors. Deeper within the building there are a number of smaller plan rooms, a corridor and a secondary staircase to the upper floors. This is likely to have been the servicing area to the house and it appears that there have been more alterations to the original plan form of the smaller rooms including the installation of toilets and a kitchen for the offices. Occasional studwork partitions have been installed within a number of the rooms. All remaining historical features and remnants of the original plan form contribute to the significance of the building.
- 8.13. The internal works to facilitate the conversion to flats include occasional blocking up of existing doorways, the occasional creation of new doorways, blocking up but retaining the majority of the secondary staircase, covering the coving behind suspended ceilings to achieve required fire and sound protection, the insertion of some stud walls to divide the rooms and the removal of some existing stud walls. Where existing doorways are to be blocked architraves are to be retained to demonstrate the evolution and history of the building.
- 8.14. Only on one occasion (in proposed flat five) would the creation of a new doorway lead to the loss of an original architrave, and some of the secondary staircase would have to be removed in flat 4, but for all other internal works no historic features would be lost. The majority of original features would also remain visible. The selected locations chosen for the insertion of stud walls ensure there is no impact on the historic fabric of the building, and in most cases their insertion would have little impact on the plan form of the building. This is not the case within one of the reception rooms on the ground floor (proposed to be bedroom 1 of flat 2) and the room facing the garden on the ground floor (proposed to be bedrooms serving flat 1), where the original size and status of these rooms would be reduced by their subdivision. However, the partitions installed for the toilets would be removed to reinstate the original plan form for bedroom 1 of flat 4. On balance these alterations to the plan form could be considered to have a neutral impact on the significance of the building, with any minor loss of original plan form considered against the fact that the installation of studwork is reversible. The vast majority of the internal works could be considered to be sensitive to the surviving historical features within the house, but there is a loss of a small section of architrave and secondary staircase.

This could be considered to cause a minor level of harm to the significance of the building.

- 8.15. The exterior of Cedar Lawns is currently in a poor state of repair and a substantial amount of renovation is required to return it to its former glory to reflect its significance. Its current poor state is likely to have been caused by a combination of a lack of maintenance given its use as offices and evidence of inappropriate modern methods of works, such as the use of cement pointing. On the front elevation there is overgrown vegetation with ivy attached to the building, stained and spalled brickwork and damaged stonework. The timber windows require repair. On the Grove Road elevation there is also damaged brickwork and stonework and a more recent window opening has been added. To the side and rear (garden) elevations there is extensive damage to the brickwork and stonework and many of the windows have rotten timber sections. On these elevations there are grey plastic downpipes that create an unattractive feature. There is the potential that the poor condition of the external brickwork has caused dampness within the interior of the building so remedial action is required as a matter of urgency to ensure no further issues arise.
- 8.16. A range of works are proposed to the external facades including removing and/or making good the damaged brick and stone work on all elevations, repairing and renovating the windows and replacing timber sections where necessary on all elevations, removing the overgrown planting and ivy on the front elevation, installing a new window on the Grove Road elevation of a style more appropriate to the building, and relocating and replacing the downpipes on the side and rear elevations with a more sympathetic design. A new external grade door is to be fitted to the ground floor on the rear elevation. Such works are welcomed and are a substantial benefit to the proposal, both restoring the architectural significance of the building and improving its physical condition to secure its long-term future. It is recommended that a method statement for the external facades is submitted prior to the commencement of the works to ensure they will be carried out appropriately to sustain the significance of the building, and further details on the style and materials for the replacement window, door and downpipes should be submitted to ensure that their appearance is appropriate and compatible with the listed building.
- 8.17. Works to the side and rear of Cedar Lawns include rebuilding the solid brick boundary wall to Grove Road and demolishing the single storey service wing attached to Cedar Lawns. A building survey has been submitted with the application identifying that the boundary wall must be rebuilt due to structural problems. The lean to roof of the rear extension is supported by the brick boundary wall and therefore the extension would need to be demolished to allow for the rebuilding of the wall. The rebuilding of the wall would be on a like for like basis. The extension is a later 19th century addition the listed building and its removal would reveal the original rear façade. The main feature of the extension is the decorative chimney stack with tall stone pots. This proposal includes the re-building of the chimney and therefore will retain the key element viewable from the wider area.
- 8.18. The works of repair and restoration to the exterior of Cedar Lawns, accompanied with the proposal to reinstate the grandeur to the principle façade through landscaping works would enhance the architectural significance of the listed building and improve its physical condition thus reducing the risk posed to the building by a lack of maintenance. These are considerable heritage benefits. The change of use of the building back to residential use from offices is more sensitive to the original use of the building and is an appropriate step in seeking to secure the optimum viable use of the building in support of its long-term conservation. The

positive impact of this is diluted by the subdivision of the building into flats rather than the building being reinstated as one residential unit as originally constructed.

- 8.19. This change of use could be considered a minor heritage benefit. The creation of the small formalised element of landscaping to the rear of Cedar Lawns is compatible with its setting and could be considered a minor heritage benefit given the lack of landscaping currently addressing this elevation.
- 8.20. It is recommended that in the interest of preserving the setting of the listed building, the demolition of the boundary wall and extension should not commence until a method statement for the works has been entered into and phasing scheme for the works has been devised, and until a programme of historic building recording (to an appropriate level) has been devised and undertaken to ensure satisfactory recording of the extension.

#### Conversion of outbuilding to one dwelling (Plot 1)

- 8.21. The ancillary outbuilding is proposed to be converted into a 3 bed roomed 1 and ½ storey property. All of the existing openings on the front of the building are to be retained in their original size and location and the proposed materials, including timber panels, reflect the character of the building. The proposal would use the roofspace of the building but would not increase the height of the proposal. The works to facilitate the conversion of the ancillary outbuilding are appropriate and compatible with the significance of this curtilage listed building. It is therefore considered that the sensitive conversion proposed, subject to details secured by condition, such as a method statement and materials, would not harm the character of the curtilage listed building or the setting of Cedar Lawns.
- 8.22. The works to facilitate the conversion are appropriate and are compatible with the significance of this curtilage listed outbuilding. Two small modern flat roof extensions to the outbuilding are proposed to be demolished to facilitate the construction of the new dwelling. These extensions are of no significance and their demolition would not cause any harm to the significance of the building.

#### Conclusion

- 8.23. Overall, the works comprise some minor alterations to and reinstatement of the original plan form of the Grade II listed Cedar Lawns which would have a neutral impact on its significance. The creation of a formalised element of landscaping to the rear of Cedar Lawns is compatible with its setting. The rebuilding of the external wall to Grove Road and retention of feature chimney would have a neutral impact on the significance of Cedar Lawns.
- 8.24. The works to facilitate the conversion of the ancillary outbuilding are appropriate and compatible with the significance of this curtilage listed building. The scale and appearance of the new bungalows and dwelling are appropriate and compatible to the character of the area, including the setting of Cedar Lawns. All works and development proposed ensure there would be no detrimental impact on the setting of the other listed buildings within the vicinity of Cedar Lawns.
- 8.25. Therefore it is considered that the proposal is in accordance with Policy DM11 of the SADMP and paragraph 134 of the NPPF. The works are compatible with the significance of the grade II listed Cedar Lawns and its setting, and subject to the submission of an appropriate landscaping scheme would comply with Policy DM12 of the SADMP. In making the above assessment special regard has been had and

special attention has been paid to the duties of Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and great weight has been given to the conservation of heritage assets in compliance with paragraph 132 of the NPPF.

## **9. Equality Implications**

9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

9.3. There are no known equality implications arising directly from this development.

## **10. Conclusion**

10.1. Alterations and additions to listed buildings are acceptable in principle if it can be demonstrated that the proposal would not detract from its architectural or historical character. By virtue of the design and appearance of the scheme together with the proposed use of sympathetic materials and finishes the proposal would preserve the architectural and historical character and setting of the Grade II listed building and enhance the appearance of the buildings within the area. The proposal would be in accordance with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document and the overarching principles of Section 12 of the NPPF. The proposal is therefore recommended for approval subject to conditions.

## **11. Recommendation**

11.1. **Grant listed building consent** subject to:

- Planning conditions outlined at the end of this report.

11.2. That the Head of Planning and Development be given powers to determine the final detail of planning conditions.

### **11.3. Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** To comply with the requirements of Section 18 of the Planning (Listed Building and Conservation Areas) Act 1990.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Proposed Elevations Drg. No. 16/20/10 Rev. A (scale 1:100) and Proposed Floor Plans Drg. No. 16/20/04 Rev. A (scale 1:100) received by the Local Planning Authority on 8 September 2016,

Proposed Outbuilding Conversion, Drg. No. 16/20/12 Rev. C (scale 1:100) received by the Local Planning Authority on 7 February 2017 and

Block Plan Drg. No. 16/20/05 Rev. G (scale 1:200) and Site Plan Drg. No. 16/20/14 Rev. D (scale 1:200) received by the Local Planning Authority on 8 February 2017.

**Reason:** To ensure a satisfactory impact of the development to preserve the architectural and historic character of the building in accordance with Policies DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document.

3. Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposal shall be deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document.

4. No development shall commence until a method statement for the external elevations of Cedar Lawns, the rebuilding of the external wall to Grove Road and the retention of the feature chimney have been submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented in full before the development is first brought into use.

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document.

5. No development shall commence until a phasing scheme, which shall include a timetable for the scheduling of demolition and construction works for each phase, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the agreed timetable of works.

**Reason:** To preserve the setting of Cedar Lawns to accord with Policies DM10 and DM12 of the Site Allocations and Development Management Policies Development Plan Document.

#### 11.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.

## PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 17.02.17

**WR - WRITTEN REPRESENTATIONS**

**IH - INFORMAL HEARING**

**PI - PUBLIC INQUIRY**

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
17/00003/PP	RWR	16/00883/COU (PINS Ref 3167902)	WR	Mr Daemon Johnson 14 Landseer Drive Hinckley	23C Wood Street Hinckley (Change of use to dog day care and dog grooming centre (retrospective))	Start Date Letter <b>Questionnaire</b> Statement of Case Final Comments	15.02.17 <b>22.02.17</b> 22.03.17 05.04.17
	JB	16/00674/OUT (PINS Ref 3167591)	WR	Mr & Mrs Payne Robert and Linda Oak Farm Lychegate Lane Aston Flamville Hinckley	Oak Farm Lychgate Lane Burbage (Erection of one dwelling (outline - access, layout and scale))	Awaiting Start Date	
17/00002/PP	RWR	16/00618/FUL (PINS Ref 3164579)	WR	Mr Daniel Luczywo 27 Church Road Nailstone Nuneaton CV13 0QH	27 Church Road Nailstone Nuneaton (Erection of one dwelling with associated access)	Start Date Final Comments	05.01.17 28.02.17
17/00001/PP	RWE	16/00835/OUT (PINS Ref 3163760)	WR	Mr & Mrs Valney & Tracy Hunter 2 Delaware Road Leicester LE5 6LG	62 Forresters Road Burbage Hinckley (Erection of a detached dwelling (Outline - access only))	Start Date <b>Final Comments</b>	04.01.17 <b>22.02.17</b>
16/00036/PP	RWE	16/00505/FUL (PINS Ref 3163336)	WR	Mr Nigel Osbourne Kirkby Lane Peckleton Leicester	Peckleton House Farm Land North Of Kirkby Lane Peckleton (Erection of one dwelling)	Start Date Awaiting Decision	15.12.16

16/00037/PP	RWR	16/00113/COU (PINS Ref 3157918)	IH	Mr Fred Price c/o Agent	Land Adj. Hissar House Farm Leicester Road Hinckley LE9 8BB (Change of use of land for gypsy/traveller site for the provision of two static caravans, one touring caravan, erection of two amenity buildings and associated infrastructure)	Start Date <b>Hearing Date</b>	21.12.16 <b>22.02.17</b>
16/00034/PP	CA	15/01243/COU (PINS Ref 3154702)	IH	Mr P Reilly and Others Good Friday Caravan Site Bagworth Road Barlestone CV13 0QJ	Good Friday Caravan Site Bagworth Road Barlestone (Retention of five traveller pitches)	Start Date Awaiting Decision	16.11.16
16/00003/CLD	CA	15/00933/CLUE (PINS Ref 3143504)	PI	Mr Arthur McDonagh	Land To The North Of Newton Linford Lane Newtown Linford Lane Groby (Application for a Certificate of Lawful Existing Use for a dwelling)	Start Date Public Inquiry (2 days)	12.02.16 4&5.04.17
16/00006/ENF	CA	10/00234/UNAUTH (PINS Ref 3143502)	PI	Mr Arthur McDonagh	Land To The North Of Newton Linford Lane Newtown Linford Lane Groby (Caravans present on land in contravention to the court order and enforcement action)	Start Date Public Inquiry (2 days)	12.02.16 4&5.04.17

**Decisions Received**

16/00027/TREE	AC	16/00487/TPO (PINS Ref 5421)	IH	Adam Powell 38 The Limes Ravenstone Coalville LE67 2NW	1A Everards Way Stanton Under Bardon Markfield LE67 9TH (Fell and replace laburnum (T1) and silver birch (T2), crown lift silver birch (T3) and fell rowan (T5))	<b>DISMISSED</b>	<b>17.01.17</b>
16/00035/PP	RWR	15/00536/OUT (PINS Ref 3159043)	WR	Mrs Lynette Fallows Highfield Farm, No Mans Heath Road Chilcote Swadlincote	8 Wood Lane Norton Juxta Twycross Atherstone (Erection of 3 dwellings (outline - access and layout) (revised scheme))	<b>DISMISSED</b>	<b>25.01.17</b>

15/00013/PP	HW	14/01274/OUT (PINS Ref 3081119) To be conjoined with 3156239	PI	JH Hallam & Son Ltd	Land Beech Drive Thornton (Residential development of up to 49 dwellings (Outline - access)	<b>WITHDRAWN</b>	<b>08.02.17</b>
16/00026/PP	HW	16/00311/OUT (PINS Ref 3156239) To be conjoined with 3081119	PI	JH Hallam & Son Ltd	Land Beech Drive Thornton (Residential development of up to 48 dwellings (Outline - access)	<b>WITHDRAWN</b>	<b>08.02.17</b>

**Rolling 1 April 2016 - 17 February 2017**

**Planning Appeal Decisions**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision			Non Determination		
					Allow	Spt	Dis	Allow	Spt	Dis	Allow	Spt	Dis
30	6	22	0	2	3	0	19	3	0	3	0	0	0

**Enforcement Appeal Decisions**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn
4	2	2		

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Hinckley & Bosworth  
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## FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

PLANNING COMMITTEE

28 FEBRUARY 2017

WARDS AFFECTED: All Wards

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### Major Projects Update

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#### Report of Director (Environment & Planning)

##### 1. PURPOSE OF REPORT

- 1.1 The purpose of this Report is to provide an update to Planning Committee on a number of current projects and major schemes in the Borough that are currently being proposed or implemented.

##### 2. RECOMMENDATION

- 2.1 That Planning Committee notes the content of this report.

##### 3. BACKGROUND TO THE REPORT

- 3.1 This report provides an update of progress with regard to the delivery of major development projects.. The following sections provide the latest update:

##### Strategic Planned Housing Sites

##### Barwell Sustainable Urban Extension (SUE)

- 3.2 The Barwell SUE is allocated in the adopted Earl Shilton and Barwell Area Action Plan (AAP) for the development of 2500 new homes and a minimum of 6.2ha of employment land. The draft Section 106 document is currently with the stakeholders (land owners and consortium members), for their approval. It will then be submitted to the Council to review the document in its entirety to make sure it follows the various amendments agreed since the original resolution and to ensure events have not changed that make any provisions out of date. The final sign off is scheduled for the spring of 2017.

##### Earl Shilton Sustainable Urban Extension (SUE)

- 3.3 The Earl Shilton SUE is allocated in the adopted Earl Shilton and Barwell Area Action Plan (AAP) for the development of 1600 new homes and a minimum of 4.5ha of employment land.

- 3.4 The developer consortium is working with their consultant and the Council to commence pre-application discussions with a view to submission to the borough council mid 2017. In the meantime a viability appraisal submitted by the developers is being independently assessed by the Council. This will be used to inform the S106 infrastructure package. Officers are meeting regularly with members of the consortium to encourage progress at the earliest opportunity.

#### Land West of Hinckley

- 3.5 The development site covers an area of 44.04 hectares and is currently agricultural land. The site is allocated in the Site Allocations and Development Management Policies DPD for 850 dwellings, including 20% affordable housing, a local shop, a primary school, pedestrian access links across Normandy Way and appropriate provision of play and open space.
- 3.6 An outline planning application for the development of 850 homes including 20% affordable housing, 500m<sup>2</sup> of retail units, a primary school, community facilities including sport pitches, parkland, children's play areas, allotments, sustainable urban drainage systems, a new access from Normandy Way and associated infrastructure. on the site was submitted to the Council on 27 February 2015.
- 3.7 A full application for an element of the allocated site, phases 1 and 2 has been submitted. This application is for 260 dwellings, formal and informal public open space, a new access from Normandy Way and associated infrastructure including a sustainable urban drainage system. Both this and the outline applications were approved by Planning Committee 16<sup>th</sup> August 2016 subject to conditions and the completion of a Section 106. The final decision on the terms of the S106 agreement has been delegated to a group of six members. Work is ongoing with the Section 106 negotiations and a decision is due to be made in March 2017.

#### Other Strategic Planning and Economic Development updates

##### Town centre regeneration

- 3.8 The Council set out its high level ambition for our town centres in the Town Centre Vision document in October 2015. Work continues on bringing forward sites through discussions and meetings with various interested parties. The sites include the Trinity Lane former leisure centre site, Stockwell Head and Castle Street former Coop site. Appropriate updates will be brought to members as matters move forward.

##### LEADER

- 3.9 The England's Rural Heart LEADER Programme 2015-2019 (European Union initiative for rural development) covers rural areas within the boroughs of North Warwickshire and Hinckley & Bosworth. Its overall purpose is to benefit rural businesses and communities by stimulating economic growth, developing those businesses and creating new jobs in rural areas.
- 3.10 The Programme is being administered by a team at North Warwickshire Borough Council in liaison with the borough council.
- 3.11 Of the seven applications for funding received, six have been contracted. After the latest open call there have been four full applications approved at a decision meeting on 25 January 2017 with three deferred as they require more information. At this

further meeting four outline applications were endorsed to go to full applications two of which are from the Hinckley and Bosworth area. In terms of overall grant amounts:

6 contracted projects: £92,472 of which Hinckley and Bosworth has 2 projects £36,000

4 approved projects (awaiting contracts): £50,305.35 of which Hinckley and Bosworth has 2 projects £34,000

Total: £142,777 (Hinckley and Bosworth = £70,000 North Warwickshire= £72,771

- 3.12 The next call for applications will open on 13 March 2017 and will include Tourism and Culture and Heritage for the first time plus Farming Productivity, Small and Micro Enterprises and Forestry Productivity. The programme team is working with Warwickshire CC and Leicestershire CC on joint publicity for the range of different grants offered across the two LEADER areas, and further strengthening the referencing between organisations. A new promotional leaflet has been designed by the Hinckley and Bosworth Borough Council communications team

4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

- 4.1 This report will be taken in open session.

5. FINANCIAL IMPLICATIONS IB

Strategic Planned Housing Sites

- 5.1 In relation to Barwell SUE it is anticipated that monies will be received from S106 contributions. As this is still in the negotiation phase the contribution sum has not been agreed.
- 5.2 The Earl Shilton SUE (paragraph 3.3 & 3.4) planning application will require officers' time to review. This cost will be met from existing budgets. The planning fees are still to be ascertained.
- 5.3 Negotiations are taking place in relation to S106 contributions for the Land West of Hinckley (Paragraph 3.5).

LEADER

- 5.4 As this is a European initiative the funding is either provided at 100% or requires matched funding from the applicants so there are no direct financial implications for the Council.

6. LEGAL IMPLICATIONS MR

- 6.1 Set out in the body of the report.

7. CORPORATE PLAN IMPLICATIONS

- 7.1 This Report provides an update on projects that will contribute to the following strategic aims of the Council:

- Creating a Vibrant Place to Live

- Empowering Communities

## 8. CONSULTATION

- 8.1 None directly required in relation to this update. Statutory consultation processes on schemes form part of the development management and local plan making processes.

## 9. RISK IMPLICATIONS

- 9.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.
- 9.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.
- 9.3 The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
None identified		

## 10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

- 10.1 This Report provides an update on a number of schemes, several of which are the subject of separate reporting mechanisms within which equality and rural implications are considered.

## 11. CORPORATE IMPLICATIONS

- 11.1 By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

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Background papers: None

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Executive Member: Councillor M Surtees



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

PLANNING COMMITTEE

28 FEBRUARY 2017

WARDS AFFECTED: All Wards

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## Planning Enforcement Update

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### Report of Director (Environment & Planning)

#### 1. PURPOSE OF REPORT

- 1.1 To provide an update to Members on the number of active and closed enforcement cases within the borough.
- 1.2 To provide an update on the current work load that is being handled and managed by the team.
- 1.3 To provide an overview of the performance of the compliance, monitoring and enforcement function within the planning and development service.

#### 2. RECOMMENDATION

- 2.1 That the report be noted.

#### 3. PLANNING ENFORCEMENT CASE UPDATE

##### 3.1 Good Friday Caravan Site

Following an appeal to the High Court, the judge on the 15 July 2015 upheld the enforcement notice requiring the cessation of the use of land as a caravan site. Therefore, the occupiers of the Good Friday site are required to vacate the site by 15 January 2017, and reinstate the land by 15 April 2017.

Following the High Court decision, the occupiers of the Good Friday site submitted another planning application for the site, this application being for five traveller pitches, as opposed to the previous application for 10 pitches that was been refused on 15 May 2009; this refusal having been upheld at Public Inquiry and in the High Court. The council refused this latest application on the 4 February 2016 on the same grounds as the previous application for 10 pitches (highway safety and visual amenity). Subsequently, the applicant has lodged an appeal against this planning decision. An Informal Hearing took place on the 7 February 2017 and the Council now awaits the decision of the Planning Inspectorate.

The owners have not appealed against the enforcement notice and this is still valid. A cross services team of Officers is preparing for the legal proceedings necessary to require compliance with the enforcement notice. External legal advice on these actions is being obtained to make sure that the council stands the best chance of success.

### 3.2 Land North West of Cold Comfort Farm, Rogues Lane, Hinckley

At the beginning of July 2015, it was reported to the Council that an unauthorised gypsy and traveller incursion had taken place on the land. A Temporary Stop Notice was served requiring occupation of the site to cease within 28 days. In addition to this, an injunction was sought by the council and granted by the County Court to prevent any further incursion onto the rest of the land. Following on from this the Council served a full Stop Notice and an Enforcement Notice to remove the caravans from the site. The Council returned to court to seek a further injunction to remediate the breach of planning control. However the Court only granted a further interim Injunction until a decision has been made at an appeal in regard to the enforcement notice. The owner subsequently appealed to the Secretary of State against the enforcement notice and this appeal was heard at an Informal Hearing on the 7 June 2016.

The appeal was allowed, and the site has been granted temporary planning permission for five years. The Inspector stated that the site is located within the countryside and will harm the countryside and is also in an unsustainable location away from local services. The Inspector found that the development was contrary to the Council's Core Strategy and the Site Allocations and Development Management Policies DPD. However, the inspector took into account the fact that one of the occupiers is pregnant and that special circumstances should apply which to take into account the unborn child. He considered that the five year permission will enable the child to attend a local school; the Inspector also concluded that a five year period would allow the council to plan for future Gypsy and Traveller Sites in accordance with the Local Development Scheme.

Following the appeal being allowed development commenced on site in September 2016, it became apparent to the Local Planning Authority that there were more caravans on site than permitted under the terms of the planning conditions attached to the permission issued by the Inspector. The Local Planning Authority therefore issued the owners with a Breach of Condition Notice to ensure that no more than four mobile homes are present on the site. The notice has now been complied with; however the Council will continue to regularly monitor the situation at the site as it develops.

### 3.3 Newton Linford Lane, Groby (Known as Klondyke)

On 7 September 2015, the owner of a piece of land within "Klondyke" submitted an "Application for a certificate of lawful existing use for a dwelling". The application sought to establish the use of an area within the site as a residential dwelling; the applicant was claiming that the site has been used as a permanent residential dwelling since 1985. This site is particularly well known to the Council and there is an extensive enforcement history on the whole of the site, with previous enforcement notices and Injunctions served on the land. Based on the evidence provided by the applicant the Council refused the application and subsequently an enforcement notice was served on the 7 January 2016, stating that the dwelling had to be

removed. Following the service of an enforcement notice, the applicant has submitted an appeal to the Secretary of State against the notice.

Section 124(1) of the Localism Act 2011 inserted new sections into the Town and Country Planning Act 1990 (as amended) to allow enforcement action to be taken in England against a breach of planning control when the time limits for taking enforcement action have expired and the breach has been concealed. Following a number of site visits by the Council, the local authority believed that the dwelling had deliberately been concealed by a person with a view to obtaining a certificate of lawful use.

There have been a number of high profile court cases where owners have sought to deceive the local planning authority in their initial application for planning permission or have concealed the development and then sought to argue that the local planning authority is out of time for taking enforcement action. Where it appears to the local planning authority that there may have been a breach of planning control in its area it may apply to a magistrates court for a planning enforcement order. If the Court makes such an order then the local planning authority may take enforcement action in respect of the apparent breach at any time within a period of one year and 22 days of the making of the order. Following the submission by the Council of a claim (in accordance with advice from an independent barrister) for a Planning Enforcement Order, the owner challenged the council's evidence on the basis that he believed that concealment had not occurred. The case was heard at Leicester Magistrates Court on the 7 October 2016.

The District Judge found that, based on the evidence that deliberate concealment had not occurred at the site and the Planning Enforcement Order was not granted on a the basis of a narrow 'technicality'. This decision was made on the basis that evidence was presented that suggested that people could, if they chose, view the site on a particular day in 2006 as part of an appeal site visit. The council is seeking legal advice to establish how this affects the council's case at the appeal.

The appeal against the enforcement notice is still to be heard at a Public Inquiry. It was originally scheduled to be held between 18 – 20 October 2016. However, the Planning Inspectorate had to cancel the Inquiry. A date has now been set for the Public Inquiry of the 4 – 5 April 2017.

#### 3.4 Ellis Taylor, Leicester Road, Hinckley

Two Enforcement Notices were served in relation to different parts of the Ellis Taylor site in 2015. The first was in regard to the creation of hard-standing for the parking of non-agricultural vehicles and the second in regard to the change of use of land from agricultural use to the storage of non-agricultural waste and equipment.

An appeal was made against both notices and an Informal Hearing took place on the 29 September 2015. The Inspector's decision was received on the 2 October 2015 which dismissed the two appeals. Therefore the whole site should have been cleared by the 2 May 2016. The two enforcement notices were not complied with and the Council commenced prosecution action against the owner for failing to comply with the notices.

As a result of the prosecution action, both notices have now been fully complied with and the owner is paying the Council's legal costs.

### 3.5 19 Sycamore Drive, Groby

On the 11 October 2016 the Local Planning Authority served the owners of 19 Sycamore Drive, Groby with an Enforcement Notice in regard to the erection of an unauthorised fence. The owner has not appealed against this notice and as a result; the owner was required to remove the fence by the 11 December 2016.

Subsequently, the fence was reduced to one metre in height which meant that the fence is permitted development and therefore lawful. However, temporary fencing has since been erected behind this and therefore further work is being undertaken to ensure this is also removed in a timely manner.

### 3.6 Crown Skips – Advertisement Vehicle

On a number of occasions over the last year Crown Skips have parked a vehicle 'trailer' on the side of the road continuously, utilising this for advertisement purposes. In each of these instances; the council has insisted that it be removed.

The Council issued the owner of the business with a Community Protection Notice under Section 43 of the Anti Social Behaviour, Crime and Policing Act 2014. The notice states that the advertisement on the vehicle should no longer be displayed anywhere in the Borough. As a result of this correspondence; the vehicle has been removed.

### 3.7 Dalebrook Farm, Earl Shilton

Following the grant of planning permission for an additional 10 gypsy and traveller pitches in 15/01089/COU, the council received complaints that the owners were carrying out unlawful works on the site. On the 22 December 2016 the Local Planning Authority served the owners of Dalebrook Farm with a Temporary Stop Notice which required all works on the site to cease for the period during which the Stop Notice is effective; the Notice expired on the 19<sup>th</sup> January 2017. The reason for the serving of this notice is that work that has taken place on site is not in accordance with the approved plans which may have implications in relation to impact on the Flood Plain. Discussions with the Environment Agency are taking place with a view to ensuring that the works do not cause flooding problems. This will inform the next steps to be taken on this site. The owner of the site is working with the Local Planning Authority to move forward with this development.

### 3.8 23C Wood Street, Hinckley

On the 4 October 2016 the Council received a retrospective planning application for the "Change of use to dog day care and dog grooming centre" (Planning Reference: 16/00883/COU). This was refused planning permission on the 29 November 2016 and enforcement action was necessary to cease the use.

On the 6 January 2017 the council issued the owners of the property with an Enforcement Notice requiring the unauthorised use of the premises as a dog day care and grooming centre to cease. The owner has the right to appeal the notice and this should be submitted to the Planning Inspectorate by the 6 February 2017. If no appeal is submitted the use should cease by the 6 March 2017.

### 3.7 S215 – Untidy Land Notices

Within the period from 1 October 2016 to 31 December 2016, the council was made aware of seven untidy properties. Four properties are still under investigation and are affecting the public amenity of the area and appropriate steps are being taken to ensure that the properties are tidied to an appropriate level with certain Section 215 Notices to be issued as necessary.

Out of the other properties, three cases were closed as they were found to be not affecting the public amenity of the area to a level where action could be taken. Two recent successful cases have been resolved; one in regard to High Tor East, Earl Shilton where an allotment had two unused mobile homes and an extreme amount of debris; after discussions with the owner; the site has now been tidied and is to an acceptable standard. A further site which has been tidied up following successful negotiation is 65 Sherwood Road, Stoke Golding; this property was very overgrown and the property in a bad state of repair. The property has been completely renovated and all vegetation has now been removed and is no longer adversely affecting the amenity of the area.

Further to this the Council has also issued a Section 215 Notice on owners of 1 Trinity Vicarage Road, Hinckley. This is an abandoned factory premises located adjacent to a Hammonds furniture showroom. Within the notice the owner is required to demolish the building and remove all overgrown vegetation from the premises. This should be done by the 6 April 2017.

A Section 215 Notice has been served upon owners of 140 Leicester Road, Markfield. This is a property which was granted planning permission in 2006 to undertake extensions and alterations. Works have been ongoing at an extremely slow rate for over 10 years. A notice has been served to ensure that the building works are completed within six months. If an appeal is not lodged then the works should be complete by 23 July 2017.

## 4.0 WORKLOAD & PERFORMANCE

- 4.1 The following tables show the current work load the team is managing in respect of current enforcement investigations. Table 1 demonstrates the number of cases that have been opened within that period and how many cases have been closed. The team ensures that enforcement cases are resolved as expediently as possible. Table 2 shows in more detail how the cases were closed. This table demonstrates that the majority of cases that have closed are either through negotiation, or by retrospective planning applications being received and approved. As of the 31 December 2016 there are 212 enforcement cases; however a number of these are currently dormant i.e. awaiting further information or subject to ongoing monitoring to collate evidence. The team is taking a proactive approach to ensuring cases are resolved as promptly as possible, using all available powers where appropriate.

*Table 1: Number of Enforcement cases opened and closed*

<b>Period of time</b>	<b>Number of cases opened</b>	<b>Number of cases closed</b>
1 October 2016 to 31 December 2016	86	99
1 July 2016 to 30 September 2016	98	80
1 April 2016 to 30 June 2016	74	68

*Table 2: How the enforcement cases were closed*

<b>Period of time</b>	<b>Total Cases closed</b>	<b>Case closed by resolving breach</b>	<b>Case closed by not being a breach</b>	<b>Cases closed by being Permitted Development</b>
1 October 2016 to 31 December 2016	99	42	49	8
1 July 2016 to 30 September 2016	80	28	42	10
1 April 2016 to 30 June 2016	68	22	43	3

- 4.2 On the 9 March 2016, the Council approved an updated Planning Enforcement Protocol. The protocol has been updated to be in accordance with the NPPF and sets out how the Council will proactively manage planning enforcement issues within the borough by monitoring the implementation of planning permissions and ensuring conditions are fully complied with. Currently the enforcement team is achieving it's targets by ensuring that 98% of complaints received site visits are undertaken within seven working days. The service also acknowledges receipt of 100% of complainants within its three working days t target.
- 4.3 Planning enforcement and monitoring is carried out on a pro-active basis to seek solutions to problems that may arise. The service provides pre-application advice which allows issues that could delay the speed at which a planning application to be determined to be resolved prior to submission. The way in which enforcement cases are dealt with now reflects this proactive approach.
- 4.4 The first strand to this proactive approach involves working more closely with elected members and community groups; for example Parish Councils and Neighbourhood Forums to deal with common complaints that are raised. This may include untidy sites, unauthorised advertisements and unlawful land uses. The aim is to actively seek out problem cases and tackle them before they become an eyesore and detract from the local area or have an adverse impact on amenity. A proactive approach is also taken to the checking and monitoring of planning permissions. A new system of regular monitoring of sites ensures that the development is built in accordance with the approved plans and that relevant condition and Section 106 obligations have been complied with (or enforced against).

- 4.5 The service will continue to take a proactive approach to monitoring progress on large housing developments in close consultation with the Executive Member. Recent examples of this would include the work undertaken at Higham on the Hill and Welbeck Avenue in Burbage, ensuring that conditions imposed are complied with. This also allows relationships to be brokered between the site manager and those residents living within the vicinity of a development to ensure that they are not adversely affected by a development which is likely to go on for several years. The approach to tackling enforcement cases will continue to be a collaborative one; involving joined up working with other service areas within the council to find solutions. Work is also on-going to create a Leicestershire wide enforcement group; to include all Enforcement Officers within Leicestershire Local Authorities as a forum to share experiences and best practice.

**5. FINANCIAL IMPLICATIONS [TF]**

- 5.1 None

**6. LEGAL IMPLICATIONS LEGAL IMPLICATIONS MR**

- 6.1 None

**7. CORPORATE PLAN IMPLICATIONS**

The 2017-2021 Corporate Plan sets out ambitions for improving neighbourhoods, parks and open spaces, improving the quality of homes and creating attractive places to live (Places theme). It also promotes regeneration, seeks to support rural communities and aims to raise aspirations for residents (Prosperity theme). This report sets out how planning enforcement powers are being used to deliver these aims.

**8. CONSULTATION**

None

**9. RISK IMPLICATIONS**

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Dealing with numerous Public Enquiries	Monthly monitoring of implications on revenue budget by Head of Service and Service Manager. Review and forecast overspend and review supplementary estimate/virement as part	Rob Parkinson

	of budget review. Constant review of budget for public enquires for duration of the masterplan. Monitoring of budget in relation to appeal costs. Monitoring of planning decisions	
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#### 10. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

This report is for information purposes to update Members on the progress of recent enforcement cases. As this report is not seeking a decision it is envisaged that there are no equality or rural implications arising as a direct result of this report.

#### 11. **CORPORATE IMPLICATIONS**

By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Voluntary Sector

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Executive Member: Councillor S Rooney