

Item: 02
Reference: 14/01121/FUL
Applicant: Mrs Rebecca Dawe
Location: 28 Lutterworth Road Burbage
Proposal: Erection of a dwelling

RECOMMENDATION:- Refuse planning permission.

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as objections have been received from more than five addresses.

Application Proposal

This application seeks full planning permission for the erection of a detached, two storey, three bedroom dwelling, detached double car barn and the subdivision of the garden of No. 28 Lutterworth Road, Burbage. The proposed dwelling would be located to the rear of No. 28 and the existing vehicular access to serve both the existing and proposed dwelling would be retained.

The proposed dwelling would be of contemporary design and is to be constructed of modern materials including cedar timber cladding and white rendered walls, metal grey zinc standing seam roof sheets and grey aluminium cladding, windows and doors. The footprint of the proposed dwelling, measures 11.5 metres in depth and 11.7 metres in width with a maximum roof height of 7.2 metres. The front elevation is to be set into the existing ground level by approximately 0.5 metres. The proposed scheme includes the use of a PV solar system, air source heat pump and rainwater harvesting.

The proposed car barn to serve the proposed and existing dwelling is to be constructed of red facing brick and tiled roof and would have a footprint measuring 5 metres by 5 metres and with a ridge height of 4 metres. The proposed car barn would replace the existing garage and would be positioned to the north east of No.28 Lutterworth Road. The application proposes two spaces per dwelling.

A number of trees are to be removed to facilitate the development with the majority of the existing boundary hedgerows to be retained.

During the course of the application amended plans were received, which reduced the number of proposed bedrooms to be provided from four to three. The amendments also sought to remove the ground floor windows and door from the ground floor of the existing dwelling and to re-site the door within the front elevation to face directly onto Lutterworth Road.

The Site and Surrounding Area

The site area of the existing dwelling measures approximately 0.11 hectares. The existing property is a detached two storey dwelling fronting directly onto Lutterworth Road. There is currently a detached store to the side (which is to be demolished), set back 9 metres from

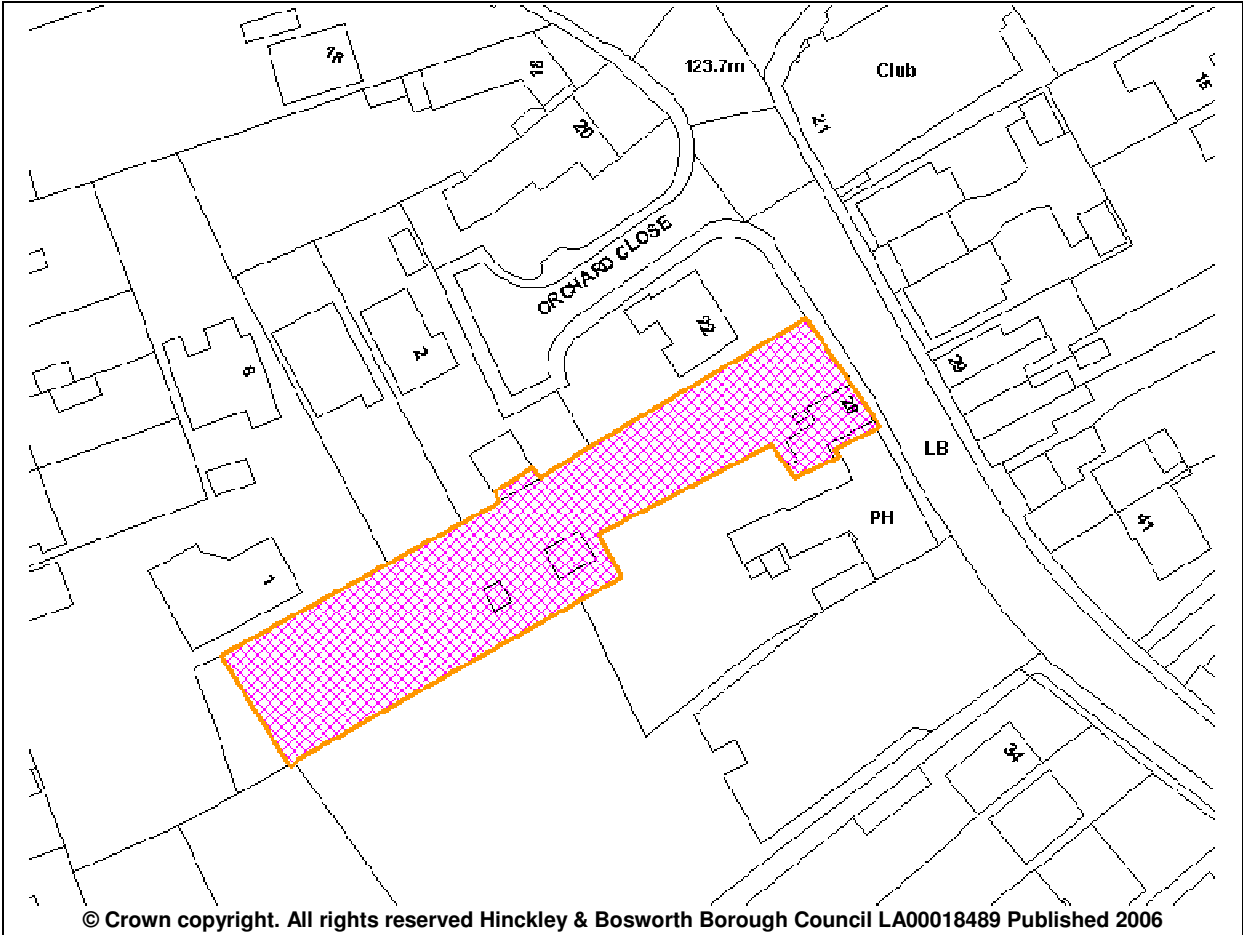
the highway boundary. There is hardstanding for two vehicles in front of the store accessed by a 2.5 metres wide driveway immediately adjacent to the existing dwelling. The remainder of the front boundary is defined by a brick wall approximately 1.2 metres in height. The long rear garden is enclosed by a mix of walls, fences and mature hedgerows. There are a number of semi-mature trees within the rear garden, some of which are to be removed to enable the development. An Oak tree that is protected by a Tree Preservation Order is to be retained. To the south of the site lies a public house and associated land, there are residential properties surrounding the remainder of the site.

Technical Documents submitted with the application

Design and Access Statement

Relevant Planning History:-

| | | | |
|--------------|--|-----------------------------|----------|
| 14/00758/FUL | Erection of a dwelling | Withdrawn | 29.09.14 |
| 02/01296/FUL | Erection of two storey residential annexe to dwelling | Withdrawn | 19.12.02 |
| 99/00357/OUT | Erection of detached dwelling and garage and alterations alterations to access | Refused Appeal Dismissed | 15.09.99 |



Consultations:-

No objection has been received from:-

Environmental Health (Land Drainage)
Environmental Health (Pollution).

No objection subject to conditions have been received from Leicestershire County Council (Highways).

Burbage Parish Council object on the following grounds:-

- a) the proposal would be contrary to Policies BE1 (a) of the Local Plan, paragraphs 53 and 64 of the NPPF and Burbage Village Design Statement Guidance Notes GN1 and GN2 2.6
- b) the proposed new dwelling would result in highway safety issues - inadequate access onto Lutterworth Road with poor visibility close to a bad bend on a busy road where speeding and on-street parking is a problem
- c) the application proposes inadequate turning within site
- d) there would be considerable adverse impact on occupiers of 22 Lutterworth Road from traffic noise and disturbance being surrounded by access roads
- e) the proposed dwelling would be an incongruous and uncomplimentary built form
- f) the proposed development does not complement or enhance the character of the surrounding built form.

Site notice posted and neighbours notified, objections have been received from six different addresses. The objections received are summarised as follows:-

- a) the development would result in undesirable backland development without proper road frontage contrary to Policy BE1(a)
- b) the proposal would result in an adverse impact on character of the area
- c) the proposed access would be a detrimental form of development and result in the adjacent dwelling being surrounded by access roads
- d) the proposed two storey height is not in keeping with bungalows/dormer bungalows in Orchard Close
- e) the design and appearance of dwelling is out of keeping with local properties and incongruous with the surrounding area contrary to paragraphs 53 and 64 of the NPPF
- f) there would be adverse impact on neighbours amenity from increased vehicle activity, noise, disturbance and pollution as a result of the position and proximity of the proposed access to windows and garden and loss of privacy and security contrary to Policy BE1 (i) of the Local Plan
- g) the proposed dwelling would result in a loss of privacy from overlooking
- h) the development would have an overbearing impact and would result in a loss of light
- i) the proposal would result in loss of mature trees that provide significant amenity
- j) there would be an adverse impact on the environment, loss of wildlife/habitat as a result of the application
- k) the development would result in an increase in noise and environmental pollution from additional traffic and occupation of new dwelling
- l) the circumstances have not changed since the previous application and appeal that was refused and upheld
- m) the proposed development would give rise to highway safety concerns from the position of the access with inadequate visibility and additional traffic onto Lutterworth Road, close to a sharp bend, bus stops and existing driveway opposite and where there are on street parking problems, speeding traffic and relocation of road warning signs would be required
- n) the scheme proposes inadequate parking within site

- o) the development would increase traffic congestion on Lutterworth Road
- p) the proposal would result in an inadequate access for emergency vehicles.

Policy:-

National Policy Guidance

National Planning Policy Framework (NPPF) March 2012
National Planning Practice Guidance (2014)

Hinckley and Bosworth Core Strategy 2009

Policy 4: Development in Burbage

Hinckley and Bosworth Local Plan (2001)

Policy BE1: Design and Siting of Development
Policy RES5: Residential Proposals on Unallocated Sites
Policy T5: Highway Design & Vehicle Parking Standards
Policy IMP1: Contributions Towards the Provision of Infrastructure & Facilities
Policy REC3: New Residential Development - Outdoor Play Space for Children

Supplementary Planning Guidance/Supplementary Planning Documents

Burbage Village Design Statement (BVDS)
Play and Open Space (SPD)
Sustainable Design (SPD)
New Residential Development (SPG)

Appraisal:-

The main considerations with regards to this application are:-

- the principle of development
- the layout and design of the proposed development and its relationship to the character and appearance of the surrounding area
- the amenities of neighbouring properties
- highway safety
- loss of existing trees
- other considerations

Principle of Development

The NPPF in Paragraph 14 provides a presumption in favour of sustainable development. Paragraph 49 states that housing applications should be considered in this context and that policies relating to the supply of housing should not be considered up to date if the local authority cannot demonstrate a five year supply of deliverable sites. As of 1 October 2014, the council has a five year supply of deliverable housing sites.

Policy RES5 of the adopted Local Plan states that on sites not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within a settlement boundary and the siting, design and layout of the proposal do not conflict with the relevant plan policies. The site is located within the settlement boundary of Burbage and therefore there is a presumption in favour of sustainable development. Policy

4 of the Core Strategy also supports the delivery of housing within existing settlement boundaries of Burbage which forms part of the Hinckley sub-regional centre.

Notwithstanding that the site may be considered to be in a sustainable urban location, the NPPF at Paragraph 53 suggests that local authorities should consider setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. As such the proposed development of this residential garden should be considered against local policies to determine if it would harm the local area.

Siting, Layout, Design and Relationship on the Character and Appearance of the Area

Paragraph 56 of the NPPF identifies design as a key aspect of sustainable development. Paragraph 64 states that permission should be refused for development of poor design that fails to improve the character of the area, however, Paragraph 60 states that decisions should not attempt to impose architectural styles and should not stifle innovation, originality or initiative though unsubstantiated requirements to conform to certain development forms or styles, although it is proper to seek to promote local distinctiveness.

Policy BE1 (criterion a) of the adopted Local Plan seeks to ensure that the development 'complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, design, materials and architectural features' with the intention of preventing development that is out of keeping with the character of the surrounding area. The council's adopted Supplementary Planning Guidance (SPG) on New Residential Development aims to ensure that new development has regard to the character of the surrounding area and is well integrated into its surroundings. Additional design guidance is included within the Burbage Village Design Statement (BVDS) which in (GN)1 states that proposals are not required to copy or pastiche existing design styles in an area and that innovative and contemporary designs that respect their context are encouraged.

Objections to the application have been received from neighbours stating that the proposed scheme is undesirable 'backland' development without proper road frontage in an incongruous and uncomplimentary form contrary to the established linear character of the area; the design and the two storey scale and appearance of the dwelling is out of keeping with the bungalows/dormer bungalows in Orchard Close and other local properties.

In a previous appeal decision in 1999 which relates to the site (appeal reference number APP/K2420/A/99/1035262/P8) for a similar scheme, the Inspector noted that 'there is a wide mix of house types in the vicinity of the site' and this is enforced by the description of the area in the Burbage Village Design Statement which notes that 'there is a wide variety of properties in age, style and construction'. Accordingly it is considered that there are no distinct design characteristics in the vicinity.

The gable front and steep pitched roof design of the adjacent dormer bungalow contrasts with the single storey scale and design of the other dwellings in Orchard Close. The submitted plans demonstrate that the two storey scale of the proposed dwelling is not out of keeping in terms of its overall height with the adjacent dormer bungalow. Notwithstanding that the modern design and appearance would contrast with the traditional brick and tile materials of the adjacent dwellings, as previously stated, the proposed dwelling would not be viewed as part of the Orchard Close development and therefore it is considered that the proposed modern design and appearance would contrast with, but not result in any harm to, the character or appearance of the area.

The siting and layout of the proposal would result in 'backland' development in relation to the existing dwelling and the previous application, 99/00357/OUT, was refused, in part, on that

basis. However, in the subsequent appeal decision, the Inspector noted that there is existing built development at depth off Lutterworth Road (comprising detached dwellings within similar sized plots on Orchard Close immediately to the north west of the site) and that by virtue of this and the considerable separation distance from Lutterworth Road, the form of the proposed development would not be out of keeping with, or detract from the appearance of Lutterworth Road. The Inspector concluded that notwithstanding that the proposal would be visible from Orchard Close, it would not be prominent within or viewed as part of this street scene given its position behind the strong boundary hedgerow. This proposal is not significantly different from the appeal in respect of the siting and plot size of the proposed dwelling; however the application differs in respect of the parking and access arrangements which are being proposed.

The parking and vehicular access serving the proposed dwelling would be contained approximately 40 metres to the east of the application, and would result in a footpath to the proposed new dwelling cutting through the middle of the proposed private amenity space for No. 28. The proposed layout is considered to be of poor design and results in a convoluted access being proposed, owing to the fact the proposed dwelling is situated a significant distance from the vehicular parking. Furthermore, the proposal, if approved, would result in the loss of the only private amenity area for No. 28 Lutterworth Road, as the proposed pedestrian access would pass through the rear amenity space identified for the existing dwelling, No. 28. It is considered that this would result in development that would be of an uncharacteristic layout for the area, and over development of the space available to the side of No. 28.

The proposal is therefore considered to conflict with Policy BE1 (criterion a) due to the poor and un-functional relationship between the proposed dwelling and the proposed vehicular access. It is also contrary to the council's SPG on New Residential Development which require development to complement the character of the surrounding area together with the overarching principles of the NPPF, with particular reference to Paragraph 53, which seeks to prevent the inappropriate development of gardens and harm to the local area.

Relationship to Neighbouring Properties

Criterion (i) of Policy BE1 of the adopted Local Plan requires that development does not adversely affect the occupiers of neighbouring properties. The Council's Supplementary Planning Guidance (SPG) on New Residential Development states that proposals should not have a detrimental impact on the amenities and privacy enjoyed by the occupiers of adjoining property.

Objections to the proposal have been received on the grounds that the scheme will result in a loss of light from an overbearing/overshadowing impact, a loss of privacy as a result of overlooking and an adverse impact on neighbour's amenity from increased vehicle activity, noise, disturbance and pollution and a loss of privacy.

No. 1 Orchard Close is a dormer bungalow located approximately 3.5 metres to the north west of the proposed dwelling. There are two ground floor windows and a first floor window in the front gable elevation. The front garden is hard landscaped with ornamental planting and is open to Orchard Close. There is a two metre high hedgerow forming the boundary with the application site. The proposed dwelling is two storeys in height. The proposed two storey element projects 7 metres forward of the front elevation of No. 1 but by virtue of the separation distance of 3.5 metres the proposal is not considered to result in any overbearing or overshadowing impact or loss of light to the windows or garden area. There are no windows proposed in the side elevation facing No. 1 that would result in any overlooking. However, there are first floor windows in the proposed rear elevation that would look towards the private rear garden of No. 1. By virtue of the 12 metres separation distance to the

boundary, which is less than the 12.5 metres garden depth guidance in the council's adopted SPG, it is considered that these windows would not have an adverse impact on amenity as a result of a loss of privacy from overlooking.

Nos. 2, 4 and 6 Orchard Close are detached bungalows located to the north west of the application site. The front elevations of the dwellings face the application site, however, by virtue of the separation distance of approximately 20 metres from the proposed dwelling, it is considered that the scheme will not have any adverse overbearing/overshadowing impact or result in any loss of privacy from overlooking in respect of these properties.

No. 25 and 27 Lutterworth Road are link detached, two storey dwellings located opposite the proposed access. They are set back approximately 1 metre from the highway behind a 0.5 metre high boundary wall and have main windows facing the highway. Notwithstanding that these dwellings (particularly No. 27) are opposite the access and are likely to be affected by headlight glare from vehicles using the access, in this case, the affected windows already face the existing access and front onto Lutterworth Road and passing traffic. Therefore the potential impact on the amenities of these dwellings as a result of increased width and use of the access is not considered to be so significant as to have a material adverse impact on their amenity.

No. 22 Lutterworth Road is a two storey detached house located to the north west of the application dwelling. In the previous appeal decision (reference number APP/K2420/A/99/1035262/P8) the Inspector raised concerns in respect of the adverse impact that the use of the proposed access would have on the future amenities of both No. 28 and, in particular No. 22 Lutterworth Road, which is bound by vehicular accesses on three boundaries of the dwellings curtilage. The Inspector was particularly concerned that the development would result in an increase of noise, disturbance and headlight glare from passing traffic to windows and private garden areas, resultant to the scheme proposing the car barn serving the proposed dwelling being located to the rear of the existing dwelling with the existing vehicular access being relocated and extended along the north west boundary. This proposal in contrast seeks to retain the existing area of parking to serve both the proposed and existing dwelling, therefore removing the headlight glare from passing traffic into No.22.

The proposed dwelling is located approximately 43 metres to the south west and will therefore have no direct adverse impact on No. 22. The proposed car barn serving the proposed and existing dwelling would replace an existing garage which currently resides on the application site. The proposed car barn would be positioned close to the boundary between No. 28 and No.22, with a separation distance of approximately 2 metres from the side elevation of No.22. There are two ground floor windows positioned within the side elevation of the No. 22 however due to the position of the proposed car barn being set back away from the those windows and the existence of boundary treatment which is in excess of 2 metres, it is not considered that the car barn would have a significant impact upon No.22, in terms of overshadowing.

The existing dwelling No. 28 Lutterworth Road, is a two storey detached dwelling, with the principal elevation serving the dwelling positioned on the side elevation facing the parking area associated with the dwelling. This elevation has a central porch and two windows within the ground floor. Following concerns raised by the officer in terms of potential impact upon this property from noise, disturbance and headlight glare into the property, amended plans were submitted. The amendments proposed are to remove the porch and create an entrance into the dwelling within the front elevation, and block up the two windows at ground floor. The access at its widest would afford for approximately 8 metres.

Notwithstanding the submitted amendments and the proposed scheme for vehicular parking for the proposed dwelling to be sited to the east of the application site, it is considered that although the impact from the glare of headlights would be reduced, the turning and parking area proposed would still be within 4 metres of the side elevation of No.22, which contains two ground floor windows and a first floor window. Furthermore the proposed parking and turning area would be immediately adjacent to the gable wall of No. 28 with any current and future occupants having cars manoeuvring in a confined area. Accordingly after careful consideration of all the objections received from the Burbage Parish Council and neighbours and the previous appeal decision, it is considered that the previous grounds for refusal are still relevant and reasonable in this case and that the scheme is therefore contrary to Policy BE1 (criterion i) of the adopted Local Plan and the council's Supplementary Planning Guidance on New Residential Development.

Highways Safety

Policies BE1 (criterion g) and T5 require that development will not generate traffic likely to exceed the capacity of the highway network or impact upon highway safety and that adequate access, parking and manoeuvring facilities are provided within the site.

The amended plans improve visibility to the south of the access and provide sufficient off road parking and turning space for both dwellings which is an improvement on the current sub standard access. Although Leicestershire County Council (Highways) would seek to resist a proposal that could lead to an increase in use of substandard access, the application proposes improvement to the current vehicular and pedestrian visibility, which result in a highway gain, therefore a refusal on highway safety grounds cannot be substantiated in this instance. Therefore Leicestershire County Council (Highways) has suggested a number of conditions, should planning permission be granted. The scheme is therefore in accordance with Policy BE1 (criterion g) and T5 of the adopted Local Plan.

Loss of existing trees

Concerns have been received in respect of loss the proposal resulting in a loss of trees, particularly in reference to the Silver Birch positioned to the front of the site which is approximately 13 metres in height. Consultation with the Tree Officer has been carried out in regard to whether the tree would be worthy of a Tree Preservation Order. Following consultation it is evident that the tree had been previously topped to 6 metres where a decay cavity is present. Subsequent to this topping the crown has regenerated and the cavity area supports a significant weight of new branches. However the cavity limits the safe useful life expectancy of the Silver Birch and therefore Silver Birch would not merit protection in the form of a Tree Preservation Order. If planning permission was granted the planting of a replacement tree would be recommended to mitigate the loss of the Silver Birch.

The protected Oak tree, which is positioned centrally within the application site, is identified to be retained, and it would be deemed necessary to seek conditions on protection measures to be implemented during the course construction to ensure the health of this Oak tree.

Other considerations

On 28 November 2014 the Secretary of State announced revisions to CIL and S106 contributions and the NPPG. Following the announcement of the Secretary of State, the Council's ability to request S106 contributions on smaller sites has been removed. Contributions can not now be sought on developments less than 10 dwellings. This proposal seeks the erection of one new dwelling and therefore contributions cannot be required towards Play and Open Space in this instance.

Conclusion

The NPPF sets out a presumption in favour of sustainable development and residential development proposals should be considered in this context. The application site is in a sustainable location within the settlement boundary of Burbage. However, as a result of the proposed layout and its close proximity of the proposed vehicular access and parking the proposal would result in an unacceptable adverse impact upon the amenities of neighbouring properties, in terms of noise and disturbance generated from an increase in vehicular movements. In addition due to the long and convoluted and uncharacteristic pedestrian access to the proposed dwelling being in excess of 40 metres from the proposed parking provision, the scheme results in a poor layout, this would result in a loss of private amenity space. The proposal would therefore constitute overdevelopment of the plot and an inappropriate form of garden development, failing to respect the character of the surrounding area. As a result the proposals are considered to be contrary to Policy BE1 (criteria a, and i) and RES5, the council's adopted Supplementary Planning Guidance on New Residential Development and the overarching principles of the NPPF.

RECOMMENDATION:- Refuse planning permission.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

In dealing with the application, through ongoing dialogue and the proper consideration of the proposal in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the local planning authority have attempted to work with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application, however in this instance the matters of adverse impact on the character of the area and the amenities of the existing and neighbouring properties remain in conflict with the development plan and the application has been refused.

Reasons:-

- 1 In the opinion of the local planning authority by virtue of the constrained parking and turning facilities and the uncharacteristic layout of the scheme, the proposal constitutes an inappropriate form of development that is not well integrated to, and fails to complement or enhance, the character of the surrounding area. As a result the proposal is contrary to Saved Policy BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan 2001, the council's adopted Supplementary Planning Guidance on New Residential Development and the overarching principles and intentions of Paragraph 53 and 64 National Planning Policy Framework 2012.
- 2 In the opinion of the Local Planning Authority the proposal will be likely to result in increased activity, particularly vehicular movements, associated with the occupation of an additional dwelling which are likely to give rise to an increase in levels of noise and disturbance to the occupiers of the adjacent and existing property No. 22 Lutterworth Road, to the detriment of the amenities they currently enjoy, contrary to Policy BE1 (criteria a and i) of the adopted Hinckley & Bosworth Local Plan 2001 and the overarching principles and intentions of Paragraph 53 of the National Planning Policy Framework 2012.

Contact Officer:- Jenny Brader Ext 5620