

PLANNING COMMITTEE

21 April 2015

RECOMMENDATIONS OF CHIEF PLANNING AND DEVELOPMENT OFFICER

ON APPLICATIONS FOR DETERMINATION BY

THE PLANNING COMMITTEE

BACKGROUND PAPERS

Background papers used in the preparation of these reports are filed in the relevant application files, unless otherwise stated

PLANNING COMMITTEE AGENDA - 21 April 2015 - NUMERIC INDEX

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Item: 01

Reference: 14/00951/REM

Applicant: Curtis Hall Ltd

Location: Nailstone Colliery Wood Road Nailstone

Proposal: Approval of reserved matters (appearance, landscaping, layout and scale) of outline planning permission 10/00851/EXT for the redevelopment of former colliery site to include storage and distribution uses (Class B8), small business units (Class B1 (C), B2 and B8), a country park, landscaping open space and the formation of a new access (accompanied by an Environmental Statement) (cross boundary application with North West Leicestershire District Council)

RECOMMENDATION:- Grant subject to conditions.

Introduction:-

This submission seeks the approval of the reserved matters for the: Redevelopment of the former colliery site to include storage and distribution uses (Class B8), small business units (Class B1(C), B2 and B8), and Country Park, landscaping and associated open space, pursuant to outline planning permission 10/00851/EXT.

This is a cross boundary application with North West Leicestershire District Council.

The application site can be split into two distinct forms of development, the employment development and country park.

The employment aspect of the development comprises three large distribution warehouses totalling 93,109sqm and a small to medium enterprise unit of 929sqm on the site of the former colliery totalling approximately 55 hectares. The outline planning permission for the site limits floorspace for the large warehouse buildings up to a total of 93,109sq m with an additional allowance of 1,862sq m for SME buildings in accordance with the parameters of the outline application. The schedule of areas are as follows:

- Unit A: Total Floorspace – 33,259sq.m (358,000sq.ft)
- Unit B: Total Floorspace – 34,395sq.m (370,225sq.ft)
- Unit C: Total Floorspace – 25,455sq.m (274,000sq.ft)
- Total Large Warehouse Floorspace: 93,109sq.m (1,002,225sq.ft) (same as approved parameter)
- SME Unit Floorspace – 929sq.m (10,000sq.ft) (less than the approved parameter – allowance of 1,858sq.m)

The eaves height for all three larger warehouse buildings is 15 metres with the ridge height at 18 metres in accordance with the outline.

The access to the site will be gained via the approved entrance on Wood Lane and an internal estate road which provides access to the individual units. The site will have parking for cars and cycles provided in accordance with the 6Cs Design Guide parking standards with a total of 769 car parking spaces and 241 cycle parking spaces provided.

It is proposed to enhance the surrounding farmland (approximately 88 hectares) in the form of a Country Park which will be publically accessible for a range of recreational and leisure uses. The Country Park also provides an opportunity to improve the biodiversity and ecological value that the site has lost during its use as a colliery.

A phasing strategy has been prepared to enable the development to be undertaken in stages, enabling a revenue stream to be established with the early phases of the Country Park delivery, to ensure the successful delivery of the remainder of the country park and employment site.

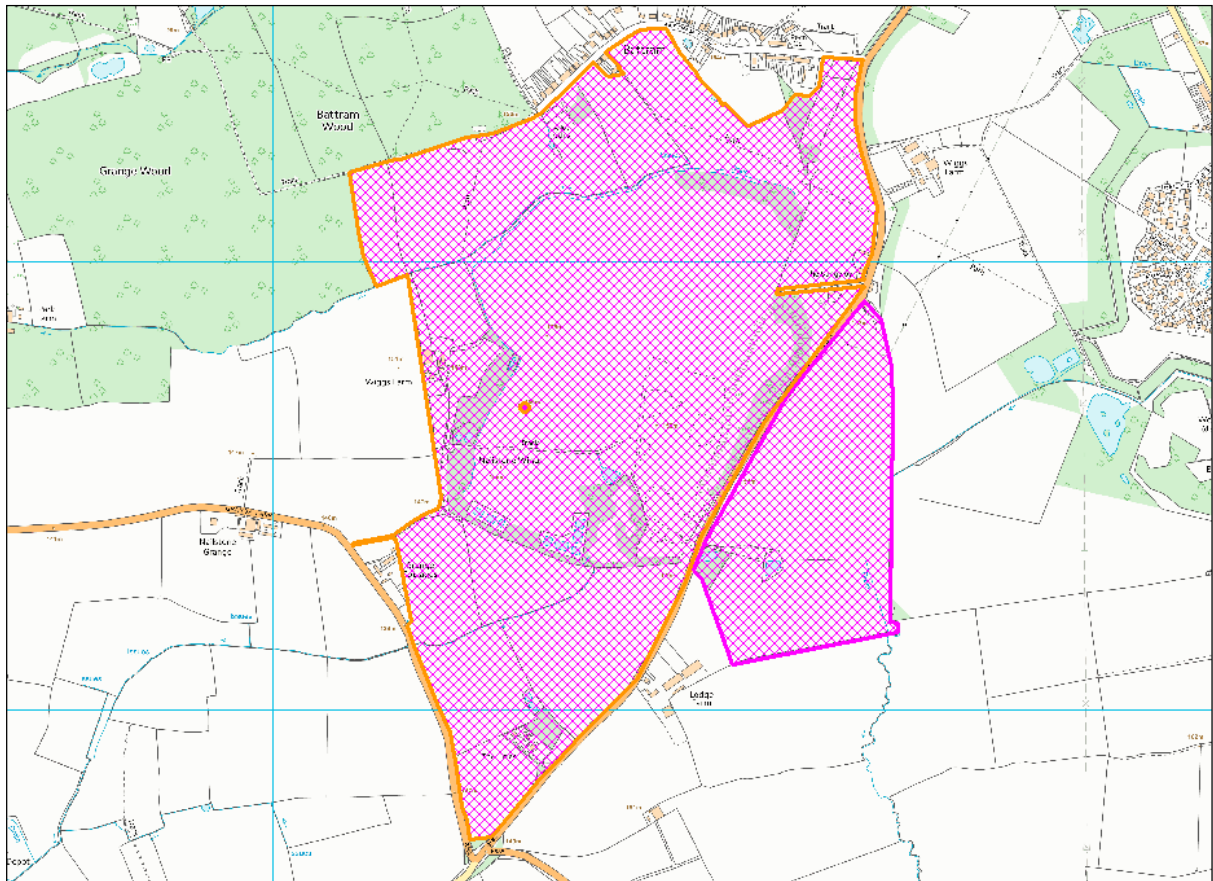
The Site and Surrounding Area

Nailstone Colliery is a former coal mine, previously owned and managed by the National Coal Board. The colliery first began extracting coal in the late 1890s and closed in the 1980s. The current site is approximately 143 hectares in size and comprises exposed spoil heaps to the north of the site, large areas of hardstanding associated with the previous coal washing facility, balancing lagoons to the centre of the site to manage run-off and land to the south of the site which is currently used for agriculture. To the west of the site is a belt of trees with ancient woodland status. An additional strip of agricultural land exists to the east of the site adjacent to Wood Road which forms part of the site area.

The site sits approximately 1km to the north east of the village of Nailstone and approximately 1km to west of the village of Bagworth. The northern part of the site sits close to the village of Battram, in the district of North West Leicestershire. As such this is a cross-boundary application and an identical application has been submitted to North West Leicestershire District Council.

Relevant Planning History:-

14/00572/CONDIT	Variation of condition numbers: 2, 3, 4, 5, 7, 8, 9, 11, 12, 13, 16, 17, 21 and 24 of 10/00851/EXT to allow phasing of the development	Approved	13.01.15
11/00837/CONDIT	Removal of condition 23 of planning permission 10/00581/EXT	Approved	12.12.11
10/00851/EXT	Extension of time for 06/00980/OUT	Approved	15.02.11
06/00980/OUT	Redevelopment of the Former Colliery Site to Distribution Uses (Class B8), Small Business Units (Classes B1(C), B2 and B8), a Country Park, Landscaping, Open Space and the Formation of a New Access	Approved by the Secretary of State following call-in	06.03.08



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Consultations:-

No objection received from:-

- Natural England
- Highways Agency
- Coal Authority
- Environmental Health (Pollution)
- Environmental Health (Drainage)
- Leicestershire County Council (Highways)
- Leicestershire County Council (Ecology)
- Leicestershire County Council (Rights of Way)
- Conservation Officer
- Environment Agency

A site notice was displayed, neighbours notified and press notice publicised. One letter of representation has been received objecting to the proposal. Summary of comments:-

- a) disappointed that there has been no public consultation on the design of the buildings
- b) concerns about the lighting proposed and the External Lighting Plan submitted is not clear
- c) disappointed that the requirement to provide a bus service has been removed
- d) If Nailstone residents are to enjoy the Country Park it is essential that there is a good path for pedestrians, pushchairs and cyclists from the village
- e) the small business proposed on site is too small, there should be more provision for small businesses

- f) the site has been identified as one of the best locations for wind energy in the borough so there should be more provision to develop a community renewable energy supply company providing benefits on site as well as the local community
- g) tree and shrub planting should include edible species wherever possible so that the proportion of hazel should be increased and that other suitable edible varieties added to the list.

Development Plan Policies:-

National Policy Guidance

The National Planning Policy Framework (NPPF) 2012
The National Planning Practice Guidance (NPPG) 2014

Hinckley & Bosworth Core Strategy 2009

Policy 21: National Forest

Hinckley & Bosworth Local Plan 2001

Policy EMP4: Employment Development on Sites Other Than Those Allocated for Employment Uses

Policy NE2: Pollution

Policy NE10: Local Landscape Improvement Areas

Policy BE1: Design and Siting of Development

Policy T5: Highway Design & Vehicle Parking Standards

Policy T11: Traffic Impact Assessment

Policy REC4: Proposals for Recreational Facilities

Policy REC9: Access to the Countryside

Policy REC12: Nailstone Colliery

Other Documents/Guidance

Employment and Land Premises Study 2013

Appraisal:-

Principle of Development

The principle of development has been established by the grant of the outline planning permission on the site and the subsequent variations of conditions to introduce phasing. An Environmental Statement was submitted as part of the outline consent. The applicant has submitted addendum chapters to the Environmental Statement providing updates where necessary. These are considered in detail below.

Phasing

The applicant has developed a phasing strategy linked around the need to complete ecology enabling works and earthworks before the commencement of plot development and to ensure that the Country Park is delivered in a phased manner in association with the construction of the development.

Phase 1 - works to the Southern Area of the Country Park

These are to be carried out early in the project programme as part of the preliminary site infrastructure and ecology mitigation strategy.

Phase 1A - start on site - to be carried out before completion of ecology enabling works:

- Preliminary works to creation of Country Park in southern corner of site including footpath/bridleway construction and blocks of forestry planting;

Phase 1B - Creation of Great Crested Newt mitigation area.

- excavation of ponds, constructing hibernacula, protective fencing, planting and seeding;

Phase 1C - Site Drainage Infrastructure.

- excavation of attenuation ponds, earth mounding, reed bed and drainage ditch construction to engineer's details;

Phase 1D - Completion of Southern Country Park.

- Construction of footpaths, fencing, furniture, planting and seeding to remaining areas of Southern Country Park;

Phase 2 - Site Infrastructure and plateau formation - to be commenced after completion of newt clearance includes:

- Plateau formation and site earthworks including cut and fill, capping and slope stabilisation works;

Phase 3 – Construction of first building on site

- Construction of Unit 1 building and associated car parking, service areas and on plot landscape works;
- Woodland planting, car park and footpath construction and associated works to northern area of Country Park. To be developed with management board and local community to identify priorities in terms of delivering the overall proposals;
- Completion of site access, highway works and other conditions requiring satisfying prior to occupation of first unit.

Phase 4 – Construction of second building on site

- Construction of Unit 2 building and associated car parking, service areas and on plot landscape works;
- Continue planting and development of footpath network and access in northern and southern areas of the Country Park;
- Development of Country Park car park and visitor centre in conjunction with Country Park management board.

Phase 5 – Construction of third building on site

- Construction of Unit 3 building and associated car parking, service areas and on plot landscape works;
- Completion of development landscape works and site infrastructure to link into surrounding Country Park
- Continued planting and footpath works in Country Park;

Phase 6 – Completion of Country Park

- Establishment and development of eastern conservation area of country park.

Transport

The site will have parking for cars and cycles provided in accordance with the 6Cs Design Guide with a total of 769 car parking spaces and 241 cycle parking spaces. Adequate spaces will also be provided for HGVs subject to individual operators needs.

The mitigation measures agreed as part of the outline scheme to provide junction improvements and a gateway/traffic calming feature into Nailstone are still in place and will be provided as part of the scheme.

Ecology

The site has previously been subject to a range of ecological surveys in order to inform the original ecological impact assessment submitted in support of the application for outline planning permission. The key ecological receptor on site is a large population of great crested newts which inhabits a series of former colliery lagoons and nearby field ponds at the southern edge of the former colliery. Other notable ecological receptors are a population of badgers, bats, birds and a mosaic of existing habitat types including ancient woodland, species-rich hedgerows and a small pocket of lichen-rich habitat which has established on colliery spoil.

The proposed layout for the site has been designed based on the importance of the existing site ecology. An extensive Country Park will be created around the central area of built environment, which will allow existing habitats of ecological value to be retained and new ecologically valuable habitats to be created (wildflower grassland, native woodland and scrub, new native species-rich hedgerows, wetland areas). Mitigation for all potential protected and notable species, which will ensure that the favourable conservation status of all species is maintained and enhanced throughout the development.

The ecology condition has been discharged from the outline scheme and works have commenced on site in accordance with those details.

Noise and Vibration

The addendum confirms that the information set out within the Noise and Vibration Chapter and Technical Appendix 6 of the original Environmental Statement remains appropriate, subject to submission of a detailed noise assessment as required by condition 9 of outline planning permission 10/00851/EXT. Vibration is not expected to be a concern from the operational activities within the industrial development site.

From the assessment, based on the proposed development and additional mitigation in place, limitations were placed on the number of allowable Heavy Goods Vehicle movements to the site on an hourly basis. The limitations were set such that the noise impact of the development upon the nearest noise sensitive receptors is limited to negligible in the long term.

Air Quality

The scheme remains within the parameters of the Outline Planning Permission, and the required remediation, earthworks and construction activities have not significantly changed from those identified in the 2006 Environmental Statement. It is concluded that the air quality objectives for all pollutants will not be exceeded and there will be no significant air quality effects. The scheme is consistent with all national and local policies. The range of mitigation measures that will be required is unchanged.

Drainage and Flood Risk

The addendum confirms that the findings of the 2006 Wardell Armstrong 'Drainage and Flood Risk Assessment' August 2006, which was submitted as part of the 2006 Environmental Statement, remain valid.

The site has been re-examined with the latest planning and flood risk guidance and with cognizance to the latest scheme proposals for the development site and Country Park area.

Whilst infiltration techniques are not applicable for this scheme, suitable Suds systems are proposed. Further discussions with the Environment Agency have confirmed that the proposed alternative solution of onsite primary sewage treatment, reed bed tertiary treatment and discharge to the water course system would be an acceptable solution to the foul drainage for the scheme.

Outline Remediation Strategy

The technical addendum provides an update to a 2006 Wardell Armstrong Outline Remediation Strategy in the context of the 2014 reserved matters application. No significant site-wide ground contamination was detected during various phases of investigation carried out in 2006 or during investigations undertaken before and since. Nevertheless a degree of environmental remediation to protect both future site users and ecological receptors is recommended.

Given the previous use of the site as a colliery and location of various former coal workings within the site the Coal Authority have considered the proposal and have requested a condition requiring details of grounds investigations to take place to investigate the geology surrounding the adit and to provide appropriate mitigation.

Building Design

The proposed warehouse buildings have been designed to feature barrelled roofs to Units A and B. Unit C is screened by existing mounds and landscaping and features a flat roof.

The elevations have been designed to feature a palette of neutral shades with a blue horizontal band with white cladding to reduce the impact of the buildings.

The buildings are typical of large warehouse structures however given that they are set back within the site and well screened by the existing mounds and proposed planting, will largely be screened minimising the impact of the structures.

Country Park

As set out above the delivery of the Country Park is linked to relevant phases of the development and will provide a visitor and leisure use to the community and wider population of the area. The proposals involve making footways, cycle ways and access for recreation throughout the site. Planting is also proposed to National Forest planting specifications.

A Country Park Management Plan has been agreed and provided as part of the previous conditions on the outline consent. This sets out the detailed management of the Country Park and how it will be implemented and maintained.

Other Matters

The applicant has submitted an external lighting plan which has been reviewed by Environmental Health (Pollution). External lighting will largely be screened by the mounds around the site and by planting. Nevertheless there will be an increase in light pollution from the site as a result of the proposal given the proposed nature of the uses of the employment site and need for lighting. It is considered that the lighting proposed has been designed to avoid significant light spill and as such there would be no detrimental impacts upon the surrounding area.

A S106 agreement was completed as part of the outline consent and a subsequent deed of variation as part of the variation of condition application to secure the provision of infrastructure improvements to highways, public transport and the management of the country park.

Conclusion

In conclusion the reserved matters submission is considered to be acceptable and follows on closely in respect of the information that has been provided as part of the outline submission and subsequent variation of condition application to introduce phasing. In addition, details have been provided in respect of the discharge of conditions and requirements imposed as part of the outline consent.

Details will continue to be submitted for each phase to ensure that the site is developed comprehensively and in accordance with the overall masterplan approved at the outline stage.

RECOMMENDATION:- Grant subject to conditions.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be generally in accordance with the development plan, the National Planning Policy Framework and the positive impacts of the regeneration of the site with a mixed-use strategic employment development, together with the environmental benefits of the regeneration of the site and social and environmental benefits of the creation of a country park would result in a sustainable development.

Hinckley & Bosworth Core Strategy (2009):- Policy 21.

Hinckley & Bosworth Local Plan (2001):- Policies EMP4, BE1, NE2, NE5, NE10, T5, T11, REC4, REC9 and REC12.

In dealing with the application, the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

Conditions :-

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

1336-13-09-A Site Location Plan
13-052-P100G Location Plan

13-052-P101H Illustrative Masterplan
 13-052-P111D Unit A Elevations
 13-052-P112C Unit A Warehouse Floor and Roof Plan
 13-052-P113A Unit A Ground and First Floor Plans
 13-052-P115C Unit B Elevations
 13-052-P116C Unit B Warehouse Floorplan
 13-052-P117A Unit B Ground and First Floor Plans
 13-052-P119B Unit C Elevations
 13-052-P120B Unit C Warehouse Floorplan
 13-052-P121A Unit C Ground and First Floor Plan
 13-052-P123 Unit SME
 13-052-P130 Gatehouse
 1336-13-13B Country Park Concept Landscape Masterplan
 1336-13-15B Plot Development Landscape Masterplan
 1336-13-21C Overall Concept Landscape Masterplan
 1336-13-23 Hard Landscape Details 1 of 3
 1336-13-24 Hard Landscape Details 2 of 3
 1336-13-25 Hard Landscape Details 3 of 3
 1336-13-26 Soft Landscape Details
 1336-13-27 Tree Retention Removal Plan
 1336-13-28 Tree Retention Removal Sections
 1336-13-29 Tree Protection Fence Detail
 7262-PL-100 External Lighting Layout
 Environmental Statement Addendum – September 2014
 Landscape Design and Access Statement 1336/13/RP02A
 Planning Statement – Icen Projects
 Design Statement – Stephen George
 Tree Survey – Barry Chinn Associates
 Phasing Strategy – Barry Chinn Associates
 Energy Strategy Report – Kelly Taylor

- 2 No development shall take place on phases 4 or 5 of the development (as set out on the approved phasing strategy Doc Ref No: 1336/13/RP04 Rev A) until ground investigation works have been carried out to investigate the overlying geology and the nature of the adit where appropriate, and any mitigation measures required as a result must be implemented in full prior to the occupation of the development.
- 3 No development shall take place above base course on phases 3, 4 and 5 until representative samples of the types and colours of materials to be used on the external elevations of the proposed buildings 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.

Reasons :-

- 1 For the avoidance of doubt and in the interests of proper planning.
- 2 To ensure that the appropriate remediation takes place in respect of former coal mine workings to accord with Paragraphs 120 and 121 of the National Planning Policy Framework.
- 3 To ensure that the development has a satisfactory external appearance to accord with criteria a Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

Contact Officer:- Simon Atha Ext 5919

Item: 02
Reference: 14/01270/FUL
Applicant: Sun Farming UK Ltd
Location: Land South West Of Lindridge Farm Lindridge Lane Desford
Proposal: Erection of a 5MW solar farm and associated infrastructure

RECOMMENDATION:- Grant subject to conditions.

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is an application that has attracted community interest and the Chief Planning & Development Officer considers it necessary to be determined by Planning Committee.

Application Proposal

This application seeks full planning permission for the erection of a 5MW photovoltaic solar farm and associated infrastructure including 5 substations, 5 inverter cabinets, access tracks, security fencing and other minor works.

Two access points are proposed. Construction traffic would utilise an access from Lindridge Lane through the farm. A secondary access is proposed from Merrylees Road for occasional maintenance.

The solar farm would be connected by underground cables to the National Grid. All cabling for the solar panels, transformers and substations would be connected underground on site.

The solar panels would be set at 18 degrees and would be piled into the ground. The height of the solar panels at ground level would be 2.39 metres. From the rows of panels underground cables would carry electricity to inverter cabins and sub-stations.

A fence is proposed to surround the site. The style of fencing proposed is deer fencing with wooden posts and mesh at a height of 2 metres.

Planning permission is sought for a 25 year period. After this period of time the site would be dismantled and returned back to its former agricultural use.

The Site and Surrounding Area

The proposal is located within the countryside 1.2km north east of Newbold Verdon and 1.7km north west of Desford. The site itself consists of two adjacent agricultural fields and is approximately 12.5 hectares in size. The land surrounding the site is agricultural land and the nearest residential properties are Lindridge Hall Farm farmhouse approximately 400 metres to the south east and Lindridge Farm farmhouse approximately 600 metres to the east.

The site contains a tree within the site and includes mature hedging to the north, east and south. The hedges also contain sporadic tree planting. The northern boundary hedge includes several 'gaps' in planting. The area to the west is deciduous woodland alongside a spring.

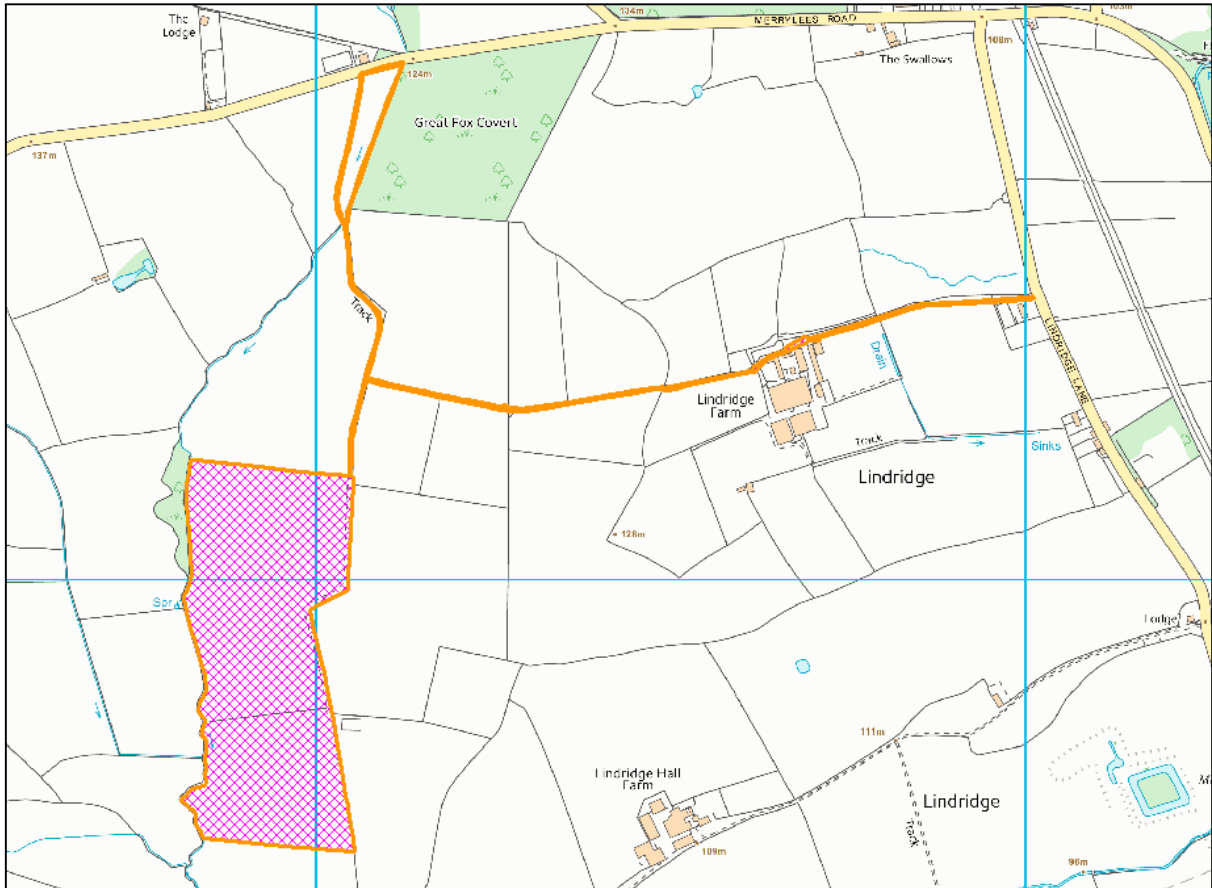
A public right of way runs adjacent to the south of the site (R88), which runs in an east-west direction. Footpath R88 is not affected by the proposal. The construction access will intersect a bridleway (R74) and a footpath (R75), which runs in a north-south direction.

Technical Documents submitted with application

Landscape and Visual Assessment
Transport Statement
Flood Risk Assessment
Introductory Environmental Statement
Tree Survey Schedule
Habitat Enhancement and Management Plan
Ecological Appraisal
Archaeological Assessment
Archaeological Geophysical Survey
Heritage Desk-Based Assessment

Relevant Planning History:-

14/00551/SCOPE	Screening for Solar Park	Opinion Issued (EIA not required)	25.06.14
14/00133/FUL	Installation of a 250KW wind turbine with an overall tip height of 45m including associated temporary infrastructure	Approved	29.04.14



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Consultations:-

No objections, subject to conditions, have been received from:-

- Leicestershire County Council (Public Rights of Way)
- Leicestershire County Council (Ecology)
- Leicestershire County Council (Drainage)
- Leicestershire County Council (Highways)
- Environmental Health (Drainage)
- Historic England
- Environment Agency

Newbold Verdon Parish Council object to the planning application, due to cumulative impacts of other renewable energy developments recently permitted in the area and the visual impact of the site.

CPRE have objected to the proposal due to the detrimental impact on the surrounding character of the countryside, harmful cumulative impact with adjacent permitted solar farms, use of agricultural land creates precedent for others and loss of valuable agricultural land.

Leicestershire County Council (Archaeology) have raised objections, as further investigations, through trial trenching, are required to understand the potential for archaeological remains on site.

Neighbours notified, site notices were displayed and a press notice published.

One letter of objection has been received. Summary of comments:-

- a) failure of developers to acknowledge proposed wind turbines nearby, suggest weakness in scoping procedures
- b) create a possible 'industrial' looking complex
- c) negative cumulative landscape and visual impact in context of two other solar farms, wind turbines and quarrying.

Policy:-

National Policy Guidance

The National Planning Policy Framework (NPPF) 2012
National Planning Practice Guidance (NPPG) 2014

Hinckley & Bosworth Core Strategy (2009)

Spatial Objective 12: Climate Change and Resource

Hinckley & Bosworth Local Plan (2001)

Policy NE5: Development in the Countryside
Policy BE1: Design and Siting of Development
Policy BE13: Initial Assessment of Sites of Archaeological Interest and Potential
Policy BE14: Archaeological Remains
Policy BE15: Preservation of Archaeological Remains in Situ
Policy BE16: Archaeological Investigation and Recording
Policy T5: Highway Safety

Other Relevant Policy Guidance

Landscape Character Assessment (2006)
Renewable Energy Capacity Study (2014)

Appraisal:-

The main considerations in respect of this application are:-

- The Principle of Development
- The Landscape and Visual Impact
- Cumulative Landscape and Visual Impacts
- Ecology
- Heritage Assets, the Historical Landscape and Archaeology
- The Impact on Neighbouring Residential Properties
- Highway Safety and Construction Traffic Management
- Flood risk

Principle of Development

One of the core planning principles of the NPPF as set out in Paragraph 17 is to support the transition to a low carbon future in a changing climate by encouraging the use of renewable resources and the development of renewable energy. This is set out further in Paragraph 93 of the NPPF which states that planning has a key role in supporting the delivery of renewable and low carbon energy and associated infrastructure which is central to the economic, social

and environmental dimensions of sustainable development. Furthermore Paragraph 98 states that when determining planning applications, local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy and approve the application if its impacts are (or can be made) acceptable.

The NPPG provides guidance in regards to specific renewable and low carbon energy developments and provides guidance upon key issues to assess when determining an application for large scale ground-mounted solar photovoltaic farms. This provides detailed guidance on particular factors to consider which includes encouraging effective use of land, the quality of agricultural land, the temporary nature of the proposals, visual impact of the proposal, potential impacts if the proposal includes arrays which follow the sun, the need and impact of security measures, impact upon heritage assets, potential to mitigate landscape and visual impacts, energy generating potential, cumulative landscape and visual impact.

Spatial Objective 12 of the Core Strategy on climate change and resource efficiency seeks to minimise the impacts of climate change by promoting the prudent use of resources through increasing the use of renewable energy technologies.

An agricultural assessment of the site concluded that the land is a mixture of 3a and 3b, the grading across the site is patchy and would be difficult to separate. Grade 3 quality agricultural land is considered to be of moderate quality and not the best quality (grades 1 - 2). Therefore the development of a solar farm on this site would not result in a loss of valuable agricultural land and is therefore considered acceptable.

It is therefore concluded that the proposal is in accordance with both national and local planning policies and guidance and is therefore acceptable in principle.

Landscape and Visual Impact

Policy BE1 (criterion a) of the Local Plan requires development to complement or enhance the character of the surrounding area with regard to scale, layout, mass and design. Policy NE5 also requires development within the countryside to not have an adverse affect on the appearance or character of the landscape and is in keeping with its surroundings and would be screened by landscaping. This approach is in line with Paragraph 109 of the NPPF, which recognises the importance of the intrinsic character and beauty of the countryside and states that the planning system should contribute to enhancing the natural and local environment by protecting and enhancing valued landscapes.

The site is defined in the Hinckley and Bosworth Landscape Character Assessment as part of the Forest Hills Character Area. The key characteristics of this area are gently undulating landforms with small plateaus on higher ground. It is defined as a predominantly rural landscape with arable and rough set-aside, influenced by industrial/urban features such as masts, poles and pylons. The area is strongly influenced by its industrial past, and as a changing landscape, it is of lesser sensitivity and therefore more resilient to change. The Landscape Character Assessment is an evidence-based document and therefore whilst not forming part of the Development Plan, it provides a contextual background in respect of the landscape character of the area.

The site does not fall within any national or local protected landscape designations, such as Areas of Outstanding Natural Beauty.

The Landscape and Visual Impact Assessment (LVIA) which accompanies the application concludes the proposal would change the character of the site itself and the immediate surroundings, which includes a public footpath. The public footpath (R88) runs adjacent to

the southern boundary and due to its close proximity the view of the landscape will be significantly altered, however due to the surrounding planting in the area, this will only be for a limited stretch of the public footpath. It is therefore considered that whilst there will be an impact to the footpath, this is not deemed significant or detrimental to footpath users. Even in the winter months screening is provided by existing vegetation due to the density and amount that bounds the site.

In respect of the wider surrounding landscape, the LVIA considered the proposal as having a minimal visual impact. The site has a low lying nature compared to its surroundings and is surrounded by mature hedgerows and trees. Additionally there are blocks of woodland in the surrounding landscape, which result in limited views of the site from the nearby and wider area. The LVIA also includes viewpoints taken from several vistas, which show views of the site are significantly limited due to existing vegetation. Partial views of the site from the wider area may be visible from Desford Cemetery, Hunts Lane; however due to existing mature vegetation these views would be limited. Whilst screening is often limited in winter months compared to that of the summer months, due to the density and maturity of the planting this provides a degree of screening all year round.

Additional screening in the form of planting is proposed to fill in any 'gaps' in existing hedgerows, to ensure appropriate mitigation is provided with the application to ensure the visual impact upon the wider landscape is minimised. The Tree Officer has viewed the species proposed and has not raised any objections to the landscaping scheme. This planting would further mitigate the visual impact of the proposal.

CCTV cameras are proposed on site; the details of these in their current submitted form (mounted on 2 metre poles along the perimeter of the site) would be urban in their characteristics and are not appropriate to the location. Therefore further details and amended CCTV proposals have been requested and members will be updated of this through a later item. No audible alarms, lighting or warning systems are proposed.

A fence would be erected around the perimeter of the site and would be at a height of 2 metres. The fence would be a 'deer style' fence and as such would not be visually obtrusive in the landscape and is considered acceptable.

It is therefore considered that the proposal will not have a detrimental visual impact to the surrounding area, and is in accordance with Policy BE1 (criterion a), NE5 and the guidance contained within the NPPF and NPPG.

Cumulative Landscape and Visual Impacts

The NPPG contains guidance upon cumulative landscape impacts and cumulative visual impacts and recommends each are considered separately.

Within the immediate area (2.5km radius) there are five wind turbines permitted, of which two have been erected. Within the wider area there are two permitted solar farms, one approximately 3.5km away from the site (application number 14/00654/FUL - Land West of The Poultry Farm, Ratby) and the second over 10km away (application number 12/00873/FUL - The Stables, Pine Close, Stoke Goulding). Other solar farms applications have been submitted within the borough; however these are yet to be determined, these are 15/00343/FUL - Land at Tower Hayes Farm, Stanton Under Bardon and 14/00660/FUL - Hall Farm, Newbold Verdon.

The cumulative landscape impact are the effects of a proposal on the fabric, character and quality of the landscape and is concerned with the degree to which a proposed renewable energy development will become a significant or defining characteristic of the landscape. The

site is within an area of varying topography, and is rural and agricultural in its nature. Existing and permitted development of wind turbines have added renewable energy developments into the area which do provide some changes to the character of the landscape, however this is limited. The proposal in its immediate setting will alter the character of the landscape, through the introduction of solar panels and associated infrastructure in an open agricultural field. However, due to its positioning within the area, the topography and existing landscape screening around the site, it is not considered that the proposal, in conjunction with the existing and permitted renewable energy development, would be viewed as a significant or defining characteristic of the landscape.

Cumulative visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views (or sequences of views), and the impact this has upon the people experiencing those views. Cumulative visual impacts may arise where two or more of the same type of renewable energy development will be visible from the same point, or will be visible shortly after each other along the same journey. Hence, it should not be assumed that, just because no other sites will be visible from the proposed development site, the proposal will not create any cumulative impacts. Due to the proposal's location, the topography of the area and existing planting the views of the development are limited. Whilst it is acknowledged that other renewable energy developments exist and are permitted in the area, it is considered the visibility of this development will be limited and therefore it is concluded that the proposal will not result in a negative cumulative effect with other existing and permitted renewable energy development in the area. The nearest solar farm is 3.5 km away (application number 14/00654/FUL - Land West of The Poultry Farm, Ratby). Due to its distance from the proposal and the topography of the area, including separating built form and landscape screening it is considered that both developments will not be seen in views together or through a sequence of views. These would form different views of the landscape and it is considered that this proposal will not have a cumulative visual impact to the area.

As such it is considered that the proposal accords with Policy BE1 of the Local Plan (2001) and the guidance provided in the NPPG.

Ecology

Paragraph 109 of the NPPF recognises the wider benefits of ecosystems and that the planning system should minimise impacts on biodiversity.

The applicant has submitted an ecology report and biodiversity management plan. The proposal has been considered by Leicestershire County Council (Ecology) who has raised no objections. Subject to conditions, it is not considered that the proposal would have an adverse impact upon sites of ecological importance or protected species.

Heritage Assets, the Historical Landscape and Archaeology

Paragraph 19 of the renewable and low carbon energy guidance as set out in the NPPG states that the significance of a heritage asset derives not only from its physical presence but also from its setting and careful consideration should be given to the impact of solar farms on such assets. This is reinforced by Paragraph 131 of the NPPF which states that in determining planning applications local planning authorities should take account of the positive contribution the conservation of heritage assets can make to sustainable communities. The NPPG also sets out guidance in respect of solar farms and that they can cause harm to the setting of heritage assets. This is additionally supported by saved Policies BE5 and BE7 of the Hinckley & Bosworth Local Plan.

No designated or non-designated Heritage Assets are recorded within the proposal site. The nearest Listed Buildings and Conservation Areas are over 1km away from the application site and, due to existing building development and surrounding topography this proposal will not harm the setting of these assets. Therefore the development is in accordance with the Paragraph 131 of the NPPF and saved Policies BE5 and BE7 of the Hinckley & Bosworth Local Plan.

Paragraph 128 of the NPPF states that where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. Saved Policy BE16 states that the Local Planning Authority will seek to enter into a legal agreement or impose conditions requiring that satisfactory archaeological investigation and recording be carried out.

An archaeological desk based assessment and geophysical survey has been undertaken for the site. These documents conclude there is the potential for some archaeological remains on the site. Leicestershire County Council (Archaeology) have requested a field evaluation prior to the determination of the application. Whilst this work has not yet been undertaken it has been agreed with the applicant and LCC Archaeology that additional site investigations will take place.

The Impact on Neighbouring Residential Properties

Policy BE1 (criterion i) of the Local Plan requires that development does not adversely affect the amenity of neighbouring properties.

It is noted that the nearest residential dwellings to the site are the farmhouses of Lindridge Hall Farm, Lindridge Farm and Halifax Farm. The existing planting and changes in topography will significantly limit the views of the proposal. It is accepted that visually the solar farm would be more pronounced in the winter months when there is less vegetation but this impact would still be limited.

Residential properties within Newbold Verdon and Desford are over 1km away from the application site and due to the distance and the topography of the land, existing woodland and mature planting, it is considered the proposal will not be detrimental to visual amenity and in many cases will not be visible at all.

As such it is considered that the proposal is in accordance with Policy BE1 (criterion i) and the renewable and low carbon energy guidance as set out in the NPPG.

Highway Safety

Policy T5 of the Local Plan states that proposals should not impact upon highway safety or the satisfactory functioning of the local highway network.

The applicant has submitted a Transport Statement which details the access to the site during construction and decommissioning phases will be from Lindridge Lane and access for general maintenance will be from Merrylees Lane. Leicestershire County Council (Highways) have raised no objection to the application, subject to conditions relating to access and traffic management.

Both access points exist and the proposal includes certain works to upgrade these access roads to facilitate the construction traffic and delivery vehicles. The existing access from Lindridge Lane is currently used by farm vehicles and has recently been used as an access to allow for the erection of a wind turbine east of the site. The access is therefore capable of

facilitating the traffic associated with this development. Additionally, the volume of traffic is for a short-term period, it is therefore unnecessary and would be detrimental to the rural character of Lindridge Lane to request the applicant to reduce planting within the visibility splays to a height of 0.6 metres, as suggested by the Highway Authority.

The submitted Transport Statement, identified that a Construction Traffic Management Plan would be prepared as a condition of any planning permission. This would ensure the appropriate routes and timings of deliveries are made and do not have a detrimental impact upon the highway network or highway safety. This is also requested by Leicestershire County Council (Highways) and therefore a condition in regard to this is relevant and necessary to ensure the application is acceptable.

Subject to the imposition of a condition, the proposal is considered to be in accordance with Policy T5 of the Local Plan and would not have a detrimental impact upon highway safety or the satisfactory functioning of the local highway network.

Flood Risk

Saved Policy NE14 of the Local Plan states that development proposals should provide satisfactory surface water and foul water measures. In addition the NPPF sets out at Paragraph 100 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. The comments and concern of the local resident have been carefully considered.

The application has been accompanied by a Flood Risk Assessment (FRA) and the scheme has been considered by the Environment Agency and Environmental Health (Drainage). The Environment Agency has raised no objection to this scheme subject to a condition ensuring the details outlined in the FRA are carried out in full. Additionally Environmental Health (Drainage) requested the swales identified in the FRA are identified on the site layout, therefore an amended plan has been submitted identifying the swales in accordance with the FRA.

Therefore subject to a condition relating to the FRA the proposal is not likely to lead to surface water flood risk and would be in accordance with Policy NE14 of the Local Plan and the NPPF.

Conclusion

The NPPF supports the transition to a low carbon future in a changing climate by encouraging the use of renewable resources and the development of renewable energy and that local planning authorities should approve the application if its impacts are (or can be made) acceptable. The principle of development is therefore considered to be acceptable.

It is considered that the proposal would lead to a minimal landscape and visual impact, mitigated against by existing landscape screening, with proposed additions to build up gaps in the site boundaries. Additionally it is concluded the proposal will not result in negative cumulative landscape and visual effects. The solar farm would not cause significant detriment to heritage assets, flood risk and ecology.

It is also considered that the proposed solar farm would have a minimal impact upon residential amenity and would not create any highway safety issues.

Therefore, and after considering the issues discussed above it is considered that the principle of development would be acceptable and there would be minimal landscape harm.

The proposal is therefore considered to be in accordance with the development plan and the overarching intentions of the NPPF. In addition, regard has been had to the renewable and low carbon energy guidance as set out in the NPPG as a material consideration.

RECOMMENDATION:- Grant subject to conditions.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as the principle of development is considered acceptable, the proposal would not have significant detrimental visual or landscape impact, cumulative visual or landscape impact, would not impact upon ecology, flood risk, historic assets, residential amenity or highway safety.

Hinckley & Bosworth Core Strategy (2009):- Policy 21.

Hinckley & Bosworth Local Plan (2001):- Policies NE5, NE12, BE1, BE5, BE7, BE16 and T5.

In dealing with the application, the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

Conditions:-

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in accordance with the submitted applications details as follows:

Dwg No. S.0500_04-B - Land Ownership Plan (received on 30 March 2015)
Dwg No. S.0500_07-D - Site Layout and Planting Proposals (received on 6 March 2015)
Dwg No. S.0500_09-A - Tree Survey & Constraints Plan (received on 30 January 2015)
Dwg No. S.0500_17-A - Inverter Cabinet Detail (received on 30 January 2015)
Dwg No. S.0500_18-A - DNO Substation Detail (received on 30 January 2015)
Dwg No. S.0500_03-C - Option Plan (received on 30 January 2015)
Dwg No. S.0500_20-A - Solar Panel Elevations (received on 3 February 2015)
Dwg No. S.0500_21-A - Deer Fence Detail (received on 30 March 2015)
- 3 All cables within the development site and to the point of connection to the National Grid shall be set underground.
- 4 Written confirmation of the date of the first export of electricity to the National Grid from the solar farm hereby approved shall be provided to the local planning authority within one month of the date of this taking place.
- 5 The planning permission hereby granted is temporary for a period of 25 years from the date of the first export of electricity to the National Grid from the solar farm hereby approved. After such time the use shall cease and the solar farm and associated equipment shall be removed from site in accordance with Condition 6.

- 6 Not less than 12 months prior to the expiry of this permission a Decommissioning Method Statement & Site Restoration Scheme shall be submitted to and in agreed in writing by the local planning authority. This shall include details of:-
- a) the works for the removal of the solar panels, ancillary equipment and structures;
 - b) works for the restoration of the site;
 - c) the management and timing of any works;
 - d) a Traffic Management Plan;
 - e) an Environmental Management Plan to include measures to be taking during decommissioning to protect wildlife and habitats;
 - f) identification of access routes; and
 - g) a programme of implementation.
- 7 Should the solar farm hereby approved no longer be required for the purposes of electricity generation or cease to operate for a continuous period of 6 months, a Decommissioning Method Statement & Site Restoration Scheme as per the requirements of Condition 6 shall be submitted to and agreed in writing by the local planning authority within 3 months of the end of the 6 months cessation period. The decommissioning works shall then be carried out in accordance with the agreed Decommissioning Method Statement & Site Restoration Scheme.
- 8 The development shall be fully implemented in accordance with the following: -
- Reasonable Avoidance Measures contained within appendix 2 of the Ecological Appraisal prepared by Avian Ecology Ltd dated 16 January 2015;
 - Habitat Enhancement and Management Plan prepared by Avian Ecology Ltd dated 19 January 2015; and
 - Badger Appendix prepared by Avian Ecology Ltd dated 19 January 2015
- 9 Installation of the Solar Panels shall not be undertaken during the bird-nesting season (March - July), unless otherwise agreed in writing by the Local Planning Authority.
- 10 The development shall be fully implemented in accordance with the planting schedule for landscape proposals identified on Dwg No. S.0500_07-D - Site Layout and Planting Proposals dated 6 March 2015.
- 11 The approved landscaping scheme shall be fully implemented in accordance with the approved details in the first available planting season after the commencement of development. The landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the local planning authority.
- 12 Notwithstanding the details submitted with the application, no development shall commence until details of the external facing and roofing materials of the DNO Substations and Inverter Cabinets are submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 13 The development shall be carried out in complete accordance with the approved Flood Risk Assessment (FRA) prepared by PFA Consulting Ltd dated January 2014. The mitigation measures shall be fully implemented prior to completion and in accordance with the timing/phasing arrangements embodied within the FRA, or within any other period as may subsequently be agreed, in writing, by the local planning authority.
- 14 No development shall commence on the site until such time as a construction traffic/site traffic management plan, including details of the routing of construction traffic, wheel cleansing facilities and vehicle parking and turning facilities, and a timetable for their provision, has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details and timetable.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure the permitted development does not have an unacceptable visual impact in accordance with policy BE1 of the Hinckley & Bosworth Local Plan (2001).
- 4 This permission is temporary and as such notification of commencement of the export of electricity to the National Grid is required to maintain proper record.
- 5 This permission is temporary for a period of 25 years following first export to the National Grid.
- 6 In the interests of visual amenity and to order to ensure the site is restored to a satisfactory appearance following decommissioning of the solar farm in accordance with Policy BE1 (criterion a) of the Hinckley & Bosworth Local Plan 2001.
- 7 To ensure the development is used for sustainable renewable energy generation in accordance with Paragraph 93 of the NPPF.
- 8&9 In the interests of biodiversity in accordance with Paragraph 109 of the Hinckley & Bosworth Local Plan 2001.
- 10 In the interests of providing landscaping to enhance visual amenity and biodiversity in accordance with Paragraph 109 of the National Planning Policy Framework.
- 11 In the interests of ensuring landscaping is in place to enhance visual amenity and biodiversity in accordance with Paragraph 109 of the National Planning Policy Framework.
- 12 To ensure the materials of the proposal are appropriate to its location and does not detract from visual amenity of the area in line with saved policy BE1 of the Hinckley & Bosworth Local Plan (2001).
- 13 To ensure sustainable drainage is in place in accordance with Paragraph 100 of the National Planning Policy Framework.

- 14 In the interests of highway safety in accordance with saved policy T5 of the Hinckley & Bosworth Local Plan 2001.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 Please note the comments provided by Leicestershire County Council (Public Rights of Way) officer in regards to the development and its impact upon the nearby public rights of way.

Contact Officer:- Helen Wilson Ext 5691

Item: 03
Reference: 14/00295/FUL
Applicant: Mr Darren Price
Location: Land East Of Heath Road Bagworth
Proposal: Proposed livestock building with associated landscaping

RECOMMENDATION:- 1. Refuse planning permission
2. Authorise enforcement action

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it has been called in at the request of Cllrs O'Shea and Boothby so that Members can consider highway safety impacts, agricultural need and the visual impact of the size and mass of the building in the countryside.

Application Proposal

This application seeks full planning permission for the erection of a new livestock building and associated landscaping on a roughly rectangular piece of land to the east of Heath Road, Bagworth. The proposed building would be located close to the northern boundary of the site and close to the existing field access off Heath Road to the west. The building would measure 15 metres in width x 10 metres in depth (150 square metres of floor space) with a ridge height of 5.8 metres and eaves height of 3.4 metres. It would have a 2 metres deep roof overhang to the front elevation. The building would be constructed of steel frames with external walls of low level (1.5 metres high) concrete panels and spaced timber boarding above, green steel sheet roof panels. The building would be open to the south elevation but with a steel feed barrier and feed trough and two sheeted steel access gates to the west and east elevations. The proposals also include landscape planting within a 50 metres long x 5 metres wide belt to the south of the proposed and existing buildings.

This application is a resubmitted scheme following a number of previously refused or withdrawn applications and a dismissed appeal for an agricultural/livestock building on the site in 2012 (see planning history below).

Site and Surrounding Area

The application site is located in the countryside to the south west of Bagworth. The land holding extends to approximately 4.04 hectares and slopes from north to south. It consists of two fields divided by a post and wire fence and laid to grass. There is a hard surfaced (loose cinders/ash) area in the north west corner of the land holding enclosed by timber post and rail fencing and gates. Within this enclosure there is a lean-to type building constructed of timber frames and profiled cladding sheets. This structure has open sides to the east elevation. The building measures approximately 11 metres in length, 6 metres in depth and 3 metres in height. The associated land holding is laid to grass and is bounded by a hedgerow of varying height to the west fronting Heath Road and by Heath Woods to the north and east. To the south of the site lies a small lake and wetland habitat.

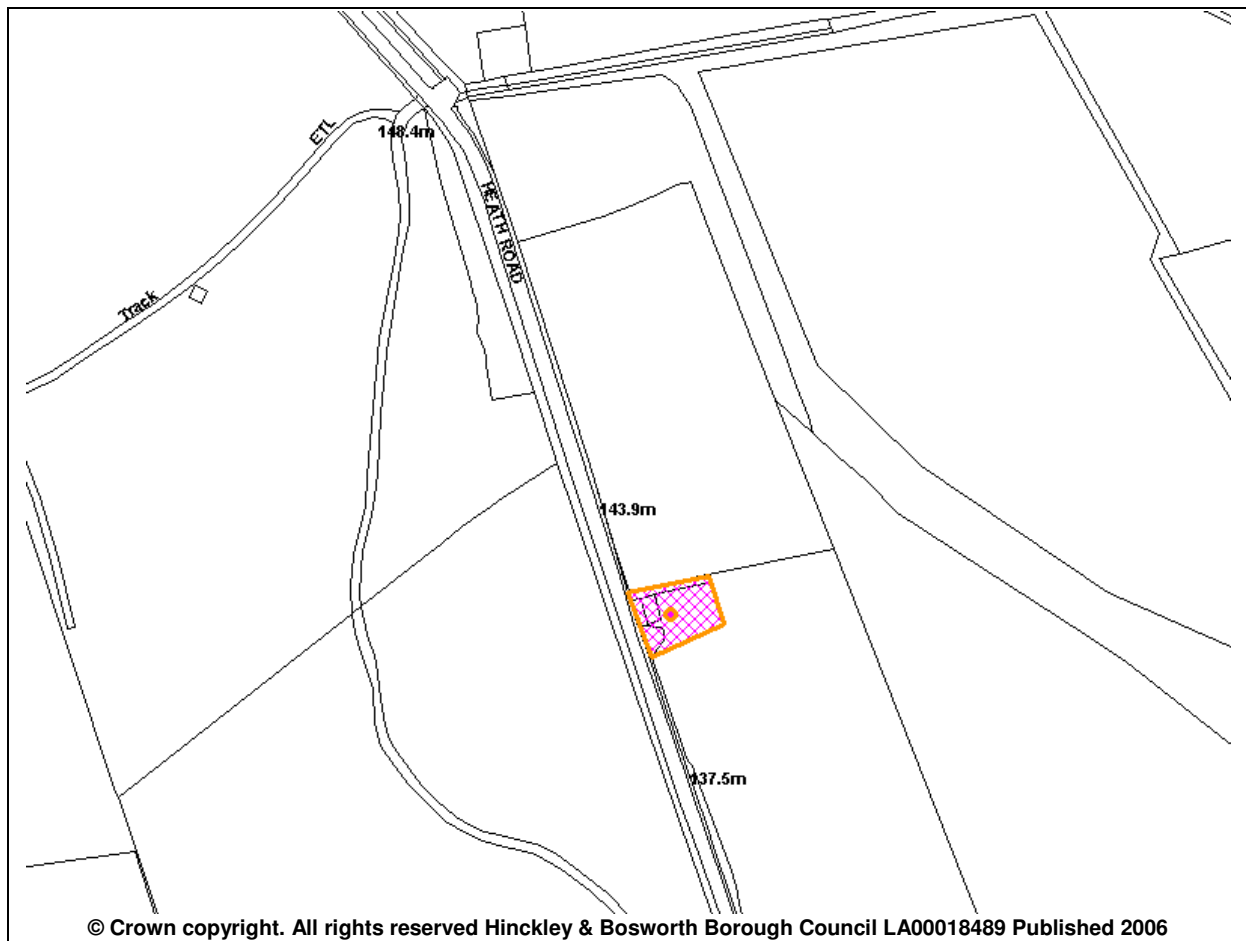
Vehicular access is proposed via two existing field gates off Heath Road located along the western boundary of the site. The northern most access leads into the enclosure area. This has been subject to various highway works, including the setting back of the access gates, widening of the access, associated fencing, hard surfacing, additional dropped kerbs and removal and reduction in height of the boundary hedgerow.

Technical Documents submitted with application

Design and Access Statement
 Planning Statement
 Details of business turnover and workings
 Extract copies of 77 equine passports
 Letter from agent
 Photomontage images

Relevant Planning History:-

13/00827/FUL	Proposed livestock building with associated landscaping	Withdrawn	13.12.13
13/00048/FUL	Proposed Livestock Building with Associated Landscaping	Withdrawn	12.04.13
11/00635/FUL	Proposed Agricultural Building	Refused Appeal Dismissed	13.10.11 15.05.12
11/00166/FUL	Agricultural Building for Livestock and Storage of Hay	Withdrawn	19.05.11
10/00770/FUL	Erection of Agricultural Building	Refused	05.01.11
10/00650/FUL	Erection of Agricultural Building	Withdrawn	15.09.10
10/00448/GDO	Erection of Barn for the Purpose of Storing Hay	Refused	23.07.10
10/00308/GDO	Erection of an Agricultural Building	Refused	20.05.10



Consultations:-

No objection has been received from:-

Environment Agency
 Environmental Health (Pollution)
 Environmental Health (Land Drainage)

No objection subject to Standing Advice and reference to the previously suggested conditions for application 13/00048/FUL has been received from Leicestershire County Council (Highways).

One letter of support has been received stating the following:-

- a) The building would provide shelter for the horses that are kept on site. Following recent problems on Fosse Park, where horses died due to being kept in awful conditions, it is important to look after the needs of horses.

One letter of objection has been received raising the following concerns:-

- a) field hedgerow has suffered severe damage and has been dumped in the field
- b) no justification provided that the building would be used by animals
- c) gypsy horses do not require this type of building
- d) intrusion into the open countryside
- e) it has taken a long time to get the owner to clear the caravan and rubbish off the site
- f) stop the development on site and clear all the existing buildings.

Councillors O'Shea and Boothby object to the application on the following grounds:-

- a) scale, design and mass of the building
- b) entrance and exit onto a dangerous road
- c) no evidence of the applicant being a livestock trader or owning any livestock.

No response has been received from Bagworth & Thornton Parish Council.

Development Plan Policies:-

National Policy Guidance

National Planning Policy Guidance (NPPG) 2014
National Planning Policy Framework (NPPF) 2012

Local Plan 2006-2026: Core Strategy

Policy 21: National Forest

Hinckley and Bosworth Local Plan 2001

Policy NE5: Development in the Countryside
Policy NE12: Landscaping Schemes
Policy BE1: Design and Siting of Development
Policy T5: Highway Design and Vehicle Parking Standards

Supplementary Planning Guidance

Design of Farm Buildings (SPG)

Appraisal:-

The main considerations in the determination of this application are whether the issues that resulted in the dismissal of the earlier appeal have been overcome. The issues that were considered at appeal were:-

- a) Principle of Development
- b) Highway Safety
- c) Impact on the Character and Appearance of the Countryside
- d) Enforcement Issues
- e) Other issues

a) Principle of Development

The site is located outside of the settlement boundary of Bagworth as defined in the adopted Hinckley & Bosworth Local Plan Proposals Map. The National Planning Policy Framework (NPPF) seeks to protect the countryside whilst allowing for sustainable development where appropriate. Paragraph 28 of the NPPF supports the development of agricultural business in order to promote a strong rural economy. Furthermore, Policy NE5 of the Local Plan supports development in the countryside that is important to the local economy and can not be provided within or adjacent to existing settlements.

In this case, the planning history of the site includes a number of applications by the same applicant for a similar building on the site but proposed to be required for a number of different purposes including only the storage of hay and more recently for the breeding and

rearing of cattle and cob horses. Previously the applicant had failed to provide satisfactory evidence with the applications to justify the erection of a building of the size and scale proposed or for the purposes proposed.

The applicant has stated that the building is required to shelter horses that are currently grazed across the Borough of Hinckley and Bosworth, Blaby and North West Leicestershire. A statement summarising the business operations between the years of 2012 and 2014 has been provided to justify the building. This provides an indication of the numbers of horses that are within the applicant's ownership, and categorises them into brood mares, stallions, yearling colts, yearling fillies and filly foals and colt foal. The statement provides information about the numbers of mares in foal, the numbers of young-stock sold (including details of the markets used) and the stallions retained for stud.

The applicant has stated that the building would enable the horses to maintain a healthy condition throughout the winter months, would provide shade in the summer and would simplify breeding processes. The applicant has explained that he breeds and deals in horses, keeping the mares and fillies and selling off the colts/geldings. The applicant has stated that this is the only field that he owns and that much of the land he rents has been sold, or is in the process of being sold for large scale housing development. He has explained that his horses would be sheltered in a similar way to how a farmer shelters cattle and that the modern agricultural buildings make cleaning, feeding and watering duties far simpler. Further, similar to cattle, it is common place for horses of this type to live in herds similar to cows. The applicant has also stated that the business is profitable.

In accordance with the NPPF and Policy NE5 of the Local Plan, the siting of an agricultural building with countryside is considered acceptable in principle, subject to it being adequately justified. Based on the information provided in support of the application, including the site inspection, it is considered that the applicant has adequately justified the need for a building.

b) Highway Safety

In dealing with the appeal (ref: APP/K2420/A/11/2166992) against the refusal of planning permission for a similar building, the Planning Inspector considered that increased use of the site access would result in an unacceptable highway safety risk. The Inspector was concerned about the restricted visibility afforded to the access by roadside vegetation and the significant increase in vehicular trips to and from the site as a result of the intensification of use of the site. The Inspector considered that the harm to highway safety could not be overcome by the imposition of reasonable planning conditions and that the proposal would conflict with Policies T5, BE1(c) and BE1 (g) concerning safety.

Since the appeal decision was issued, alterations have been carried out to the access. These include the pruning back and reduction in height of the hedgerows either side of the access and removal of a section of hedgerow to the south side of the access to increase the width of the access to 13 metres at the highway boundary. A timber fence has been erected to the edges of the site access. Planning permission has never been applied for to seek to regularise these works. As they were carried out within the past four years, the alterations and fencing are unlawful and liable to enforcement action, if the council considers it to be expedient.

The access gates have been set back by approximately 9 metres from the highway boundary, which allow vehicles to exit clear of the highway when accessing the site before they open the gate. It should be noted that the use of the site for agricultural purposes, including the keeping of livestock, is unrestricted and does not require planning permission. Leicestershire County Council (Highways) has stated that prior to the alteration works being carried out, visibility in either direction was extremely poor. They state further that, the works

have resulted in a significant improvement to visibility with splays of 2.4 metres x 60 metres to the north and 2.4 metres x 75 metres to the south. This remains substantially below the recommended visibility splay for a 60mph road, which is over 200 metres. Despite this, Leicestershire County Council (Highways) considers that the development would not generate a significant level of traffic, and given the improvements to visibility, a refusal on these grounds would be difficult to substantiate.

In considering the previous appeal, the Inspector was concerned about visibility. He stated that "there is nothing before me to indicate that there is a reasonable prospect that a suitable visibility splay to the north-west could be achieved given the different land ownership". The response from Leicestershire County Council (Highways) takes account of the Inspector's comments, but still reaches the conclusion that the development would be difficult to resist on highway safety grounds. This is on the condition that the hedges to either side are maintained to a suitable height so that these don't restrict visibility. These types of conditions are very difficult to enforce and if Members are minded to support the application, this type of condition would not be appropriate.

As stated above, the alterations to the access are unlawful and the Borough Council has the right, if it chooses, to take action to secure its re-instatement. This includes the removal of the fence (approx. 2 metres high), re-instatement of the dropped kerb and the removal of all associated material. Leicestershire County Council (Highways) does not support enforcement action because the works have provided an improved access. However, as stated below, the works that have been carried to the access give the site frontage an urban feel that adversely affects the rural character of this part of Heath Road. Enforcement matters are considered in more detail below.

The matter of highway safety and visibility has been considered in some detail given the County Council's support for the application which conflicts with the previous Inspector's conclusions. The applicant has not provided any substantive information to explain how many vehicle trips would be expected to enter and exit the site, but it is clear that the use would be more intensive than the existing use given the additional horses that would be kept on the site and the associated need to look after the animals. While it is accepted that the works that have been carried out improve visibility, those works are unlawful. Even if the council chose to not take action against the works to the access, it would not be possible for the council could control the height of the hedges on third party land (further along Heath Road), which could impede visibility over time. Nor could it reasonably enforce a condition as being recommended by the County Council to restrict the height of planting along Heath Road, within the applicant's control. Traffic travels at speed along this stretch of the road, especially as the road slopes and is straight with good forward visibility. The development would inevitably result in some intensity of the site access and this is likely to affect the safety of road users. While the comments from the County Council are noted, it is not considered that circumstances have materially changed to depart from the previous Inspector's views. The application therefore conflicts with Policies T5, BE1 (criteria c and g) of the adopted Local Plan.

c) Impact on Character and Appearance of the Countryside

In considering the impact upon the countryside as part of the previous appeal, the Inspector found that the proposal would be harmful, contrary to Policy BE1 (criterion a) of the adopted Local Plan. The Inspector considered that the proposed building would, by reason of its siting and size, erode the openness of this part of the countryside, and so would harm the landscape. The Inspector also considered that there was insufficient evidence submitted to provide a convincing case that the likely benefits of the proposal to the enterprise and to the rural economy would outweigh the harm to the rural landscape.

The design criteria i - iv inclusive of Policy NE5 are in general accordance with the NPPF and can therefore be given weight in the determination of the application. Policy NE5 (criteria i, ii and iii) require that development in the countryside does not have an adverse impact on the appearance or character of the landscape, is in keeping with the scale and character of existing buildings and is effectively screened by landscaping.

Since the appeal decision, the size and height of the proposed building has been reduced and further justification has been received in respect of the end use of the site. The proposed building would now measure 15 metres in width x 10 metres in depth (150 square metres of floor space) with a ridge height of 5.8 metres and eaves height of 3.4 metres. The building originally proposed would have measured 17.9 metres in width x 12.2 metres in depth (234 square metres of floor space) with a ridge height of 5.8 metres. The revised building would therefore be smaller in footprint, but the same in terms of height.

As explained above, since the appeal decision, the applicant has removed a significant amount of the roadside hedgerows either side of the access, which screened the site from public view. The building would therefore be seen much more prominently from the road compared with when the 2012 appeal was considered. It is recognised that the woodland areas to the north and east still provide some screening. The removal of hedgerow to enable the widening of the access, and the significant reduction in its height to the south of the access has exposed the northern half of the site to the public highway, where only very limited views were previously available. As a result, the proposed building would be highly visible from the highway to the west and to the south.

Despite reductions in the size of the building, it would be a large structure of modern construction and materials. It is understood that the location of the building has been chosen to capitalise on the existing area of hard surfacing and its proximity to the site access and the existing building. The proposed location is also the most practical, given that it would be located next to other buildings, which is preferable to a more isolated location.

The applicant has stated that a planting belt could be provided within the site to mitigate against the impact of the building on the countryside when viewed from the south. No details of the type of planting to be implemented have been submitted and there is concern that this could appear as an unnatural feature within the landscape. The site is located within the National Forest where Policy 21 of the adopted Core Strategy applies. No comments have been received from The National Forest Company. However, in providing comments upon an earlier application they stated that a narrow planting belt would be unlikely to be sufficient to provide effective screening. More substantial planting is unlikely to be possible given the potential conflict with visibility along the highway boundary.

Based on the above, while the reductions in the scale of the building would be an improvement, this is outweighed by the more prominent views as a result of the removal of planting along the border. The building would be easily seen from the road and further afield to the south and west. As with the previous application, the development would harm the openness of the area and have an adverse impact upon the character of the surrounding countryside. The proposal therefore conflicts with Policies NE5 (criteria i, ii and iii) and BE1 (criteria a) in this respect.

Enforcement Issues

As mentioned above, the works that have taken place to alter site access are substantial and have been carried out to seek to overcome highway safety concerns that concerned the council and the Planning Inspector in 2012. Before these works took place, the site's frontage had a rural feel, with a high hedge (3 metres – 6 metres high) running alongside the site's entire Heath Road frontage and a narrow entrance gate amongst the hedge,

(approximately 1.2 metres high and 3 metres wide) adjacent to the road. The character and feel of the site has been fundamentally altered by these works. While the pruning to the hedges did not require planning permission, the alterations to the access, including the new 2m high fencing (vertical boarding), the surfacing of a substantial splayed entrance area with a loose material and the dropping of the kerb should not have been carried out without planning permission first being obtained.

The changes that have been made have given the new access a more urban feel that would be more suited to an access in a built up area, or one that serves a commercial operation. The consequence of these works is an erosion of the character of the countryside, contrary to Policies NE5 and BE1 of the Local Plan.

If Planning Committee agree to the recommendation to refuse planning permission for the livestock building and authorise that enforcement action be taken in respect of the access, this will require the land owner to remove the surfacing and fencing and re-instate the land to its condition before the works took place. A small farm access would be allowed to be retained to allow grazing animals to continue to be cared for on the site.

Other Issues

In response to residents' concerns about previous enforcement problems on this site, all applications are determined on their own merits and previous enforcement issues have no bearing on this case.

Conclusion

Based on the additional justification provided, the need for the proposed livestock building has been adequately demonstrated and is therefore acceptable in principle. However, the previous highway safety concerns have not been fully overcome and despite no objections being raised by Leicestershire County Council, the visibility splay remains sub-standard and represents a highway safety concern. With regard to the building itself, this would be seen prominently and would appear unsightly when viewed from the road and surrounding area. This situation is made worse by the substantial removal of planting along the road frontage. These impacts could not be satisfactorily mitigated by additional planting.

The alterations to the access and boundary fencing adjacent to the site entrance are unlawful. It is considered expedient to take enforcement action to re-instate the land to its former condition given that these works have eroded the rural character of the countryside.

It is therefore recommended that planning permission be refused and enforcement action be authorised.

RECOMMENDATION: -

1. Refuse planning permission for the following reasons:-.

- 1 In the opinion of the Local Planning Authority the proposed development will intensify the use of an existing access that has insufficient visibility in order to leave the site in a safe manner. As such the proposal would result in a detrimental harm to highway safety. It is therefore considered contrary to policies BE1, T5 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 2 In the opinion of the Local Planning Authority, the proposed development would result in an a prominent form of development, which would intrude into the open and undeveloped countryside, contrary to policy NE5 of the adopted Hinckley and Bosworth Local Plan.

2. That enforcement action be authorised to remove all works carried out in forming the enlarged access onto Health Road, including the removal of the fence and surface material and the re-instatement of the land to its former condition.

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