

**REPORT P9**

**PLANNING COMMITTEE**

**20.06.2006**

**RECOMMENDATIONS OF HEAD OF CULTURE & DEVELOPMENT**

**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**

**Item:** 01  
**Reference:** 06/00207/FUL  
**Applicant:** George Wimpey East Midlands Ltd  
**Location:** Land At Stone Lodge Branting Hill Groby Leicester LE6 0DB  
**Proposal:** ERECTION OF 56 DWELLINGS WITH ASSOCIATED PARKING AND ACCESS

**Introduction:-**

This is a full planning application for the erection of 56 dwellings on land off Brantings Hill, Groby. The application has been submitted with a number of reports that address issues such as the planning merits; design; environmental impact; flood risk, transport; air quality and noise.

The site is located to the north-east of Groby and is bounded to the north by the A50 and the east by the A46. There is established residential development to the south fronting Branting Hill and to the west fronting Anstey Lane. The site itself measures approximately 2.22 ha and comprises an existing residential property, Stone Lodge, two grazing fields and a field with a watercourse running through it. Currently these areas are defined and separated from each other by fences and hedgerows. Both the A50 and A46 are elevated from the site; there is also an existing bund with substantial landscaping to the north and east.

Access to the site by vehicle is gained from the Leicester Road via Anstey Lane. There is a pedestrian route at the north western corner leading from the A50 and a pedestrian route at the south eastern corner alongside No 32 Branting Hill, this leads from the Leicester Road.

The proposal seeks a new road, accessed from Branting Hill opposite Nos 24 and 26. The access road forks at a right angle to the west after approximately 60 metres, both roads lead to a hammerhead. The western third of the site, which currently comprises the field with watercourse has been left as open space and is accessed via a footpath link at the end of the western hammerhead or via a separate access off Branting Hill. The area of Public Open Space is separated from the development by a hawthorn hedge. The site comprises several trees, the majority of which are to be retained. One of these located along the western boundary of the site opposite No 39 is subject to a Tree Preservation Order.

**History:-**

None recent.

**Consultations:-**

No objection subject to conditions has been received from:-

Severn Trent Water Limited  
Environment Agency.

The Borough Council's Land Drainage Engineer considers the drainage system proposed is acceptable (Sustainable Urban Drainage System) but comments that if ground strata is insufficiently permeable the better solution would be open-air vegetated flood storage basin, or a swale possibly on the line of the ditch on the north-western boundary.

Groby Parish Council raise objections on the following grounds:-

- a) increase in traffic with particular reference to the hazardous right turn into Anstey Lane from Leicester Road, which is opposite a bus stop and a nursery school
- b) impact on local schools
- c) negative impact on Rothley Brook with regards to drainage, as there is currently drainage and flooding problems in the area.

The Parish Council did however comment that they were pleased to see the provision of affordable housing.

Leicestershire Constabulary Crime Reduction Officer raises no objection to the principle of development but made recommendations in line with Secure By Design. The main recommendations comprised the provision of CCTV cameras should be considered; any landscaping should be maintained so as to not impede natural surveillance; car parking areas should be well lit; and building lines should be levelled to avoid creating hiding places and where this is unavoidable lighting should be provided.

The Director of Community Services (Archaeology) comments that there is the potential for archaeological remains to be present on the site, particularly those pre-medieval in date. It is recommended that determination be deferred to request a further stage of archaeological assessment, however if the application is to be refused on other grounds it is requested that a further reason is included for the lack of archaeological information.

English Nature comment that providing the mitigation measures are carried out as proposed it will be unlikely that the bats that are present in Building 2 will be adversely affected.

As a result of the Developer Contributions Consultation, Leicestershire County Council have the following comments:-

- Director of Children and Young People's Service - There is spare capacity in the local primary schools therefore no education contribution is required for that sector. However, the local high and upper schools are full and forecast to remain so, therefore a request for a total of £174,608 is made on behalf of Groby Brookvale High School (£86,296) and Groby Community College (£88,312).
- Head of Commercial and Support Services - based on the scale of this development in respect of additional users of the existing library facilities a contribution of £3,370 towards the cost of books, materials and other facilities is required. This would be spent over a period of 12 months.
- Natural Life Project officer - Due to demolition of built structure potential bat roost sites are being destroyed. It is recommended that the developer incorporate bat bricks and boxes into the design of the new properties and to plant native trees, common to the area, on site to establish feeding grounds for the bats.
- Director of Highways, Transportation and Waste Management - The application site is in between two civic amenity sites (Whetstone and Coalville), it is assumed residents may use either site, as such costs are split along a 50% contribution for each site. Contributions are therefore required at a rate of £31.23 per dwelling for Coalville, equating to £1748.88 of which only £874 is required. There is no requirement for a contribution towards the Whetstone site.

The Director of Highways, Transportation and Waste Management considers that the roads are generally of sufficient standard to accommodate satisfactorily the level of traffic likely to be generated. Improvements can be carried out to improve visibility to the right at the Branting Hill/Anstey Lane junction, by powers under the Highway Act. Whilst no objection has been raised to the proposal in principle, further consideration is being given to the traffic implications on the wider highway network and improving access to the site by

'sustainable modes'. Should officers be minded to recommend approval it will be necessary to discuss more detailed matters with the applicant.

The Head of Health and Environment considers the noise and air quality assessments undertaken are acceptable.

Neighbours notified, 12 letters have been received raising the following concerns:-

- a) noise and pollution from A46 and A50
- b) exacerbation of existing traffic problems
- c) lack of local amenities
- d) loss of open green space
- e) poor access roads and junctions to the site
- f) devaluation of surrounding property values
- g) field currently floods
- h) number of dwellings proposed
- i) loss of wildlife and habitat
- j) impact on local services, i.e. electricity and sewers
- k) public open space will attract the gathering of local youth and potential for vandalism
- l) Inspector previously stated the site was unsuitable for housing on environmental grounds
- m) proposed dwellings will not reduce noise as claimed by applicants
- n) poor visibility at Branting Hill/Anstey Lane junction leading to danger to cyclists and children
- o) existing on-street parking and additional traffic will cause highway safety concerns
- p) impact on local facilities, i.e education and health
- q) reduction in quality of life
- r) development not characteristic nor in keeping with surrounding area
- s) applicant's transport assessment is misleading showing visuals of empty roads - this is not the case
- t) local bus service does not serve nearest shopping centres (Anstey, Beaumont Leys and Glenfield) therefore car use will be necessary
- u) applicant's transport assessment grossly underestimates vehicle departures.

At the time of writing the report comments are awaited from Hinckley and Bosworth Primary Care Trust.

## **Development Plan Policies:-**

### Government Guidance

Planning Policy Statement 1 states that the Government is committed to a plan-led system and where adopted development plans contain relevant policies, section 54A of the Act requires the application to be determined in accordance with the plan. It also emphasises that good design is indivisible from good planning and lays down the key principles for achieving good design.

Planning Policy Guidance Note 3 'Housing' states that good design and layout of new development can help to achieve the Governments objectives and developers should think imaginatively about designs and layouts, which make more efficient use of land without compromising the quality of the environment. Densities should be between 30-50 dwellings per hectare, seeking greater density at places with good public transport accessibility. This is also re-iterated in Planning Policy Guidance Note 13.

## Structure Plan

The adopted Leicestershire, Leicester and Rutland Structure Plan Strategy Policy 1 ensures the provision of appropriate housing to meet the needs of the plan area and ensures that development is of a high quality design and where appropriate, contributes towards encouraging a sense of community.

## Local Plan

Policy BE1 of the adopted Local Plan seeks to ensure a high standard of layout and design in order to secure attractive development and enhance the existing environment.

Policy RES5 of the adopted Local Plan enables the granting of planning permission for new residential development if the site lies within the boundaries of an urban area or rural settlement as defined on the proposals map; and the siting design and layout of the proposal do not conflict with the relevant plan policies. Supplementary Planning Guidance gives further advise regarding the design of new residential development.

Policy NE2 provides that planning permission will not be granted for development which would be likely to cause material harm through pollution of the air or soil, or suffer material harm from either existing or potential sources of air or soil pollution.

Policy T5 requires development to meet the highway standards set out in the current edition of Leicestershire County Council's 'Highway Requirements for Development'.

Policy IMP1 requires developers to make a contribution towards the provision of the necessary on-site and off-site infrastructure and facilities to serve the development commensurate with the scale and nature of the development proposed.

Policies REC2 and REC3 require the appropriate level of open space to be provided within the development sites, or alternatively, a financial contribution to be negotiated towards the provision of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area. Supplementary Planning Guidance gives further advice regarding the provision of Play and Open Space.

## **Appraisal:-**

### Policy and Principle of Development

This site was allocated for housing in the deposit copy of the Local Plan dated October 1995, under Policy RES1(t). It was recommended that the allocation be removed as the site was considered unsuitable for environmental reasons. The Inspector agreed with this recommendation and further recommended that the settlement boundary be realigned to exclude the site. The Inspector's recommendation was reported to Planning Committee on 5th January 1999, and Members resolved to delete Policy RES1(t), however they did not resolve to realign the settlement boundary. When the Local Plan was finally adopted, Policy RES1(t) had been removed as an allocation, and the settlement boundary remained the same and includes the site.

It is, at this late date, impossible to say whether it was Members intention at that time to leave the site within the settlement boundary or not. Section 54A of the Town and Country Planning Act 1990 requires proposals to be determined in accordance with the plan unless material considerations indicate otherwise. The site is shown on the proposals map as being within the settlement boundary therefore Policy RES5 is the relevant policy. Case law indicates that the events leading up to the adoption of the local plan are not material considerations and therefore cannot fall to influence the determination of this application.

## Density, Layout and Design

The application proposes 56 dwellings on a site measuring 2.22 ha, this realises a density of approximately 25dph. This is just below that suggested in the adopted Local Plan, but is considerably lower than density levels recommended by Central Government. However, it falls to be considered whether the layout proposed is characteristic of the surrounding area and whether a higher density would adversely affect the character of the surrounding area. It is considered that the site could take a higher number of dwellings and not harm the character of the surrounding area. The provision of a further 10 dwellings would take the development to the lower end of the Government's recommended density level. It could, however, be argued that as the proposal lies on the edge of the village a lower density would provide the transition between the settlement and the countryside.

The layout of the proposed development is considered poor by virtue of the public open space being completely separated from the development and poor relationship between dwellings and the streetscene. The Council's Supplementary Planning on Play and Open Space requires that areas should be integrated into the overall layout of new development and designed to be a positive and attractive feature that provides a sense of place and focus for the community. It further provides that all areas should be located so that they are easily accessible to pedestrians and cyclists. It specifically states that areas of open space should not simply be in locations that cannot accommodate dwellings because of ground conditions or an awkward or undevelopable site as this can result in an area that is not adequately overlooked. It is considered that the layout proposed does not make best use of the site, the open space is detached from the development, it is physically and visually separated from the dwellings by an established hawthorn hedge, and natural surveillance of this area is virtually non-existent. There is also concern that the area designated as play and open space is unsuitable due to the watercourse running through it. Not only does this segregate an area of the site but it isn't considered the most appropriate feature to be present on an area to be used by children without some thought given to safety. Moving onto the relationship between dwellings, the streetscene and layout in general, it is considered that the position of some plots will have an adverse impact on the urban form of the street, for example side and rear gardens facing onto the main vehicular access. The relationship between dwellings to the north west of the site is poor. Little thought has been given to the streetscene and the creation of a sense of place. The layout could be improved considerably incorporating urban design principles to create a well balanced environment with attractive and clearly defined public and private spaces. Furthermore efficient use of the site could result in a higher density.

## Impact on Infrastructure

Concerns have been raised that the development will adversely impact on existing infrastructure such as roads, utility services, schools and health. Developments of this size can and do have an impact on such infrastructure, therefore as part of the planning process it is necessary to consider if and how the impacts can be mitigated. With regards to the impact of the development on the local road network, the traffic impact assessment has been considered by the Director of Highways, Transportation and Waste Management who raises no objection to the principle of development but is giving further consideration to sustainable transport methods and the impact on the wider highway network. With regards to the impact on the Utility Services such as drainage, electricity etc., it is not for the planning process to prohibit development due to these services not being capable of taking additional development. However, should the services not be capable it will be necessary for the developer to make arrangements with the service provider for the services to be upgraded. The adopted Local Plan makes provision for contributions to be made commensurate with the size of development towards infrastructure such as schools; health; libraries and civic amenity sites. In this instance, at the time of writing the report, there has been a request for a financial contribution towards education; libraries; and civic amenity

sites; comments from the Primary Care Trust are still awaited. The Applicant has requested further information to demonstrate that the development will put pressure on the existing facilities/services.

There will also be a need for the developer to make either on-site or off-site provision for play and open space. As already discussed the area proposed currently does not meet the requirements of the policy and therefore a full financial contribution is likely to be required. Financial contributions for play and open space are made up essentially of four elements the provision and maintenance of informal play and open space and the provision and maintenance of formal play and open space. In this instance it is necessary to consider the quality of the space provided to ascertain whether any of the space is useable. If an element is considered useable this will be deducted from the required contribution towards the provision of informal play and open space. The applicant has commented that the Green Space Strategy - 5 year action plan, does not identify any major projects in Groby and therefore concludes that there is no justification for requesting contributions towards off site open space. However, the Parish Public Open Space Quantity/Accessibility Audit 2005 recommends that existing green space provision is improved both in terms of quality and quantity.

It should be noted that the developer has submitted a draft Section 106 agreement with the application that addresses the provision of infrastructure.

#### Affordable Housing

The development requires the provision of affordable housing at 20% of the total, i.e. 11 dwellings should be affordable. The application details do not at this time indicate the location of the affordable units or the mix of rented and shared ownership. However, it is considered that these would be provided in accordance with guidance and will not be grouped together but instead pepper potted across the site. The draft Section 106 agreement requires the developer to submit and obtain written approval from the Borough Council of plans indicating the location of the affordable housing and the mix proposed.

#### Environmental Considerations

Concerns regarding impact on the environment and environmental impacts on future residents have been an issue with the site since the time it was originally considered as a housing allocation. As such the Inspector considered that the site was unsuitable for housing even if mitigation measures may be possible. The application as submitted included all relevant assessments and consultation responses indicate that the original concerns of the Inspector can be effectively mitigated. It therefore has to be considered whether what the Inspector concluded was correct, that the site falls below what should be expected of land for housing for a new century. It is difficult to ascertain exactly what he meant by this. Furthermore, policy and circumstances have changed in terms of efficient use of land and the need to reduce urban sprawl. It is considered that if there are no objections by the statutory consultees to the development on environmental grounds any reason to refuse the application on environmental grounds would be difficult to defend at appeal.

Concerns have been raised by local residents that the development will be affected by the adjacent roads through pollution and that the development will result in the loss of green space and natural habitats. However, again with no objections to substantiate these concerns it would be difficult to defend a reason for refusal at appeal.

#### Other Issues

Two further concerns have been raised by neighbours, these are devaluation of properties and the site currently floods. The first issue is not a material planning consideration and

cannot inform the decision making process. The second issue is a material consideration, however neither the Borough Council's Land Drainage Engineer, Severn Trent Water or the Environment Agency have raised objections. The applicant proposes a Sustainable Urban Drainage System as the method of disposal of surface water, it is therefore considered that the proposed method would alleviate any problems that currently exist.

### Conclusion

Whilst the Inspector for the Local Plan adoption considered that the site was unsuitable for residential development on environmental grounds, no significant objections to the development on these grounds have been received; and following the events leading up to the adoption of the local plan it is considered that it would be difficult to recommend refusal on either of these grounds. However, there are significant concerns regarding the layout and design of the site and the provision of on-site play and open space. It is therefore considered that the application should be refused on these grounds. Furthermore, due to outstanding issues regarding archaeology, a reason for refusal should reflect that insufficient information has been submitted to address this issue.

### **RECOMMENDATION :- REFUSE, for the following reasons :-**

- 1 In the opinion of the Local Planning Authority the proposed layout for the development poorly addresses urban design principles creating an unimaginative poorly designed scheme and inefficient use of the site resulting in a low density. It is therefore contrary to Policies BE1 and RES5 of the adopted Hinckley and Bosworth Local Plan and Supplementary Planning Guidance: New Residential Development adopted by Hinckley and Bosworth Borough Council.
- 2 In the opinion of the Local Planning Authority the proposed layout does not adequately integrate the area of open space into the development, and as such it results in a segregated area that is not easily accessible and has little natural surveillance. It is therefore contrary to Policies REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan and Supplementary Planning Guidance: Play and Open Space Guide adopted by Hinckley and Bosworth Borough Council in October 2002.
- 3 In the absence of sufficient evidence to the contrary, the Local Planning Authority is unable to assess whether the development will impact adversely on archaeological remains, contrary to Policy BE14 of the adopted Hinckley and Bosworth Local Plan.

### **Notes to Applicant:-**

- 1 The applicant is advised that should they resubmit a planning application that addresses the reasons for refusal it will be necessary to discuss the proposals fully with the Director of Highways, Transportation and Waste Management regarding traffic implications on the wider highway network and improvements to access to the site by 'sustainable transport modes'.

**Contact Officer:-** T Miller Ext 5809



**Item:** 02  
**Reference:** 06/00281/COU  
**Applicant:** Paul Finney  
**Location:** Land Off Heath Road Bagworth Coalville Leicestershire  
**Proposal:** CHANGE OF USE OF LAND FOR FOUR PRIVATE GYPSY CARAVANS  
(TEMPORARY PERMISSION)

**Introduction:-**

This application seeks temporary planning permission for a private gypsy caravan site for the retention of three touring caravans; one static mobile home; timber shed and other associated paraphernalia as well as hard-standings.

A planning application for the permanent use of the same site for four caravans was refused planning permission on 28th January 2004. An Enforcement Notice was subsequently issued and the applicant appealed to the Planning Inspectorate. On 6th January 2005 the Planning Inspector dismissed the appeal and upheld the Enforcement Notice with variations. The Inspectorate amended the notice by varying the compliance period from six months to one year. . The site should have been vacated on or before 6th January 2006 to comply with the notice.

Site and its surroundings

The site is generally rectangular in shape and was unused agricultural land of approximately 1250 square metres. Since 2003 it has been used for a site for one gypsy family (the applicant and his family, although on occasions the applicant has had close relatives visiting the site).

The site forms part of a larger area of land within the applicant's control, lying to the south, southeast and southwest, comprising overgrown, uneven and in places, boggy ground. The original topsoil on the application site and on the adjoining land has in the past, been scraped into a 3metre high bund along the south-eastern boundary. The applicant has informed Officer's that he has recently acquired an interest into the land opposite his site, which he intends to utilise for agricultural purposes.

The site is located on the west side of Heath Road, approximately 360metres north west of the access into Desford Brickworks and Bagworth Heath Woods Country Park, which includes fishing lakes and informal walks. The site is roughly one kilometre south of Bagworth. Further open access land lies to the northwest, west and south of the site in the form of new woodland planting comprising 'Royal Tigers' and 'Centennial Woods'. These areas are generally at a higher level than the application site. There is a wetland area, including marsh and open water, to the southeast associated with the general drainage pattern of the area.

The application site formed part of a larger area which was proposed for a 14 pitch gypsy site in a planning application refused permission in November 1990 (Ref 90/0429/4). Unauthorised fly tipping on the site was the subject of an Enforcement Notice served in August 2000 and the Borough Council employed direct action to clear and seal the site in accordance with the Notice, in August 2002.

The applicant refers to the recently published guidance issued by the then Office for the Deputy Prime Minister (ODPM). The new national government Circular titled 'Planning for

Gypsy and Traveller Sites' (published 2nd February 2006) has immediate effect and is a material consideration in determining this planning application. The applicant in his letter of application states that '...as you know the new circular on gypsy and traveller sites was issued in February 2006, and I [the applicant] request the Council to make a decision by taking guidance from this circular into account'.

The Local Planning Authority ("LPA") needs to consider the application because it is materially different from the previous planning application for two reasons. Firstly, this planning application is for two years only whilst the 2003 planning application (planning application reference 03/01363/COU) was for a permanent use of the site. Secondly, the publication of revised national planning guidance on gypsy and traveller sites replacing the previous departmental Circular (1/94 titled 'Gypsy Sites and Planning') is a material consideration.

In a recent case reported in Planning (26th May 2006) a local authority refused to register a planning application made by a gypsy family. This reported case is similar to the one under consideration in that an appeal for the retention of a mobile home and touring caravan at the site was dismissed. The High Court determined that the local authority in question must reconsider its decision not to register and subsequently determine the new planning application because circumstances had changed such as the fact that the children now attended local schools and the publication of the new Circular.

#### **Consultations:-**

The Leicestershire County Council's Gypsy Liaison Officer has reported the following:-

The land use is to meet the needs of Mr & Mrs Finney, a local Gypsy family and their immediate family only i.e. 4 daughters aged 22, 20, 18 and 14 years and 3 sons aged 17, 16 and 9 years. The family has been on the site for 3 years and during that time Mr Finney's 9 year old son has attended Dove Bank primary school and still continues to do so. The family has, in the past acquired temporary accommodation on private sites in Leicestershire during the summer months but have had to leave when the pitch holders returned in the winter months. Some years ago the family lived in a house in Coalville for a short period when they were in great need with nowhere else to go. The property which was owned by a family member has since been sold. The period of occupation reinforced the family's cultural aversion to 'bricks and mortar' accommodation and their need to live in caravans on a site. The family members wish to provide themselves with stability in order to continue accessing health and education provision which is vital for quality of life.

Mr Finney also clarified the reasons for requiring temporary permission for a period of two years.

In the last appeal decision from the inspector appointed by the First Secretary of State dated 6th January 2005 it states:-

- 'The appellant submitted that the time for compliance should be 2 years to enable the appellant to find, acquire and get planning permission for a new site, if this were necessary'.
- 'I appreciate the Council's submission that the site could be vacated and the land reinstated in a relatively short time. However, finding an alternative site and making any necessary arrangements for the child at school may be onerous, and I consider that a period of one year is more appropriate'.
- 'In addition, I have noted in my decision the lack of any formal quantitative assessment by the Council of Gypsy site needs. Whilst I do not consider this to be an overriding matter in determining the appeals, particularly in view of the Council's record in

permitting private sites in the area, a period of one year will allow the Council time to give guidance to the appellant on finding a more acceptable site'.

- To date Mr Finney has had one verbal conversation suggesting that planning permission may be granted for additional pitches to the site at Garlands Lane to accommodate them. This site would not be suitable and the owner of Garlands Lane no longer wants to provide any more pitches. No other attempt has been made in the last year to find alternative accommodation for the whole family.

Leicestershire County Council's Gypsy Liaison Officer comments that:-

- 'Two years would give Hinckley & Bosworth Borough Council enough time to consider the findings of the Gypsy and Traveller Accommodation Assessment that is currently being carried out, report due March 2007, to feed these findings into the Development Plan Document and work with Mr Finney in locating a suitable site for himself and his ever expanding family'.
- 'Mr Finney would consider a land swap if an alternative site could be found'.
- The Gypsy Liaison Officer also draws attention to the Office of the Deputy Prime Minister Circular 01/06 'Planning For Gypsy And Traveller Caravan Sites' published in February this year and this replaces Circular 1/94 because it had failed to deliver adequate sites for Gypsies and Travellers over the last 10 years.
- The Gypsy and Traveller Liaison Officer continues to states that the main intentions of the Circular that are most relevant are;
- To increase significantly the number of Gypsy and Traveller sites in appropriate locations with planning permission in order to address under-provision over the next 3-5 years.
- To identify and make provision for the resultant land and accommodation requirements.
- To help to avoid Gypsies and Travellers becoming homeless through eviction from unauthorised sites without an alternative to move to.
- In the Transitional Arrangements section it states in paragraph 45:
- 'Advice on the use of temporary permissions is contained in paragraphs 108 -113 of Circular 11/95, The Use of Conditions in Planning Permission. Paragraph 110 advises that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of temporary permission. Where there is unmet need but no available alternative Gypsy and Traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, local planning authorities should give consideration to granting a temporary permission'.

Director of Highways, Transportation and Waste Management recommends the application should be refused because the development if permitted would lead to an intensification in turning traffic onto and off a section of Class III road at a location in open countryside where other motorists may not be anticipating such manoeuvres. The vehicular access is also substandard in terms of available visibility both to and from emerging vehicles. To permit the development therefore would not be in the interests of Highway safety. There has been one personal injury road traffic accident that occurred in March 2003 approximately 350 metres south east of the site. No other personal injury road traffic accidents have been recorded within the last five years, in the vicinity of the site.

Director of Environment and Heritage Services (Archaeology) has no comments to make.

No replies at the time of writing this report from the Environment Agency. However, the Environment Agency provided the following response during the previous 2003 planning application: That the Environment Agency has no objections to the proposed development but comments that because the proposal includes a septic tank arrangement for foul sewerage disposal an assessment should be undertaken to ensure there are no significant environmental problems in terms of porosity and connection to the land drainage system. Subject to this being done there is no objection in principle. Their comments on this application will be reported as a late item.

The Borough Council's Land Drainage Engineer states that he commented upon the 2003 application and would reaffirm those views which were that the septic tank for this development is shown close to a culverted watercourse. The Environmental Agency may object to this and require a relocation. If the ground strata is inadequate for soakaway drainage of surface water the applicant should consider discharge into the watercourse.

Bagworth and Thornton Parish Council objects to the application for the following reasons; This particular site is outside the settlement limits for the village, the land is designated for agriculture use or leisure; the site is close to The Royal Leicestershire's Regiment's Tigers Commemorative Wood; the site is in an area of natural beauty and should be maintained as such; there is a lack of facilities; the access to and from the site is dangerous and that there is already a travellers camp within the vicinity which it is understood has vacant pitches which could be used.

Adjacent land owners notified and a site notice displayed. 29 letters received registering a strong objection to the application on the following grounds:-

- a) there are several travellers sites around the village already. Bagworth has its fair share of camps.
- b) an earlier appeal and enforcement notice to restore the site is being deliberately ignored.
- c) The site is close to a bend on an unlit section of road, where traffic speeds are high. Any vehicles using the access will be a danger to other road users.
- d) this area on the south side of Bagworth has been made very attractive with Woodland Trust and National Forest plantations as well as the country park at Bagworth Heath Woods. The development seriously detracts from the visual amenity of the rural area and is totally out of keeping with the peace and beauty of the natural countryside within the National Forest.
- e) royal Tigers Wood is an area of high amenity value for commemorative purposes only
- f) a health hazard will be created as there is no mains water or sewerage available and there are implications for water pollution of adjacent fishing lakes.
- g) the site is in open countryside outside the village envelope and there is no justification for a dwelling in such an environmentally sensitive area. A previous application for a similar development has been refused in the past.
- h) contrary to the principles of the National Forest.
- i) there would be a conflict between the residential use of the land and the existing Country Park
- j) future plans for the Country Park maybe restricted because of this development.
- k) the wooden panel fence is visually intrusive and more typical of a suburban landscape and the caravans cannot be adequately screened from the open access land
- l) would permission be given for a gypsy site on Bosworth Battlefield?
- m) public funds are being wasted
- n) Bagworth has too many gypsy sites in the area and there's no need for any more
- o) the applicant has appealed against refusal and this was dismissed
- p) dogs are intimidating for people walking by

- q) why no further enforcement action has been taken especially because of appeal decision and no other residential settlement in this location

Other comments have been received but none relate to material planning considerations.

### **Development Plan Policies:-**

#### National Government Planning Guidance

The principal guidance on planning control and gypsy caravan sites is contained in Circular 01/2006 entitled 'Planning for Gypsy and Traveller Caravan Sites' ("Circular") issued by the then Office for the Deputy Prime Minister. The Circular replaces the previous Circular 1/94 (Gypsy Sites and Planning). Although this Circular had not been published at the time of determination of the planning application it has immediate effect from 2nd February 2006.

The Circular's main ethos relates to the Government's key objective for planning for housing 'to ensure that everyone has the opportunity of living in a decent home'. It also states that the Government is 'committed to ensuring that members of the gypsy and traveller communities should have the same rights and responsibilities as every other citizen'. The main intentions of the Circular are summarised as; to create and support sustainable, respectful and inclusive communities; to reduce the number of unauthorised encampments and developments; to increase the number of gypsy and traveller sites in appropriate locations; to recognise, protect and facilitate the traditional travelling way of life of gypsies and travellers, whilst respecting the interests of the settled community; to underline the importance of assessing needs; to identify and make provision for the resultant land and accommodation requirements; to ensure that Development Plan Documents are reflective of identified needs; to promote more private gypsy and traveller site provision in appropriate locations through the planning system and to help avoid gypsies and travellers becoming homeless through eviction from unauthorised sites.

The Circular requires that a 'Gypsy and Traveller Accommodation Assessments' must be conducted. The data collected through the assessments will 'inform the preparation of Development Plan Documents'.

The Circular states that 'transitional arrangements' will need to be made '...in advance of the consideration of new Gypsy and Traveller Accommodation Assessments'. However, it states that Regional Planning Bodies will need to '...consider whether there is sufficiently robust information on which to establish district level pitch numbers'. This approach will need to be a co-ordinated one between Local Authorities and regional agencies.

Guidance is also provided on sites in rural areas and the open countryside. In the course of the Circular various planning constraints are referred to that may be relevant when determining planning applications for private gypsy sites. These considerations including local landscape and local nature conservation designations (though they are not sufficient enough to warrant refusal); the appropriateness of the site's location; the use of brownfield sites instead of greenfield ones; sustainability of the site; highway considerations; general amenity issues and human rights considerations.

In Planning Policy Statement 1 (PPS1) 'Delivering Sustainable Communities' the government's approach to planning is stated to be the objective of achieving sustainable development whilst protecting the natural and built environment (paragraph 4).

Paragraph 40 outlines the approach to be taken in determining planning applications and appeals. Reference is made to section 54A of the 1990 Act and it is stated that, 'where an adopted or approved Development Plan contains relevant policies section 54A requires that an application for planning permission or an appeal shall be determined in accordance with the plan, unless material considerations indicate otherwise'.

In Planning Policy Guidance 3 (PPG3), 'Housing' as part of a plan, monitor and managed approach to meeting housing requirements, local authorities are advised to make assessments of housing needs and to encourage the provision of housing to meet the needs of specific groups including travellers and occupiers of mobile homes (paragraph 11 and 13). It is pointed out in paragraph 13 that such assessments 'are matters for local authorities to undertake in the light of their local circumstances'.

A draft consultation document to replace PPG3 with Planning Policy Statement 3 'Housing' was issued by the Office for the Deputy Prime Minister in December 2005. The consultation period is between December 2005 and February 2006. The main thrust of the draft guidance is similar to PPG3 with regards to identifying housing need and allocating sites. Annex B of the draft statement states that when conducting sub-regional housing market and housing land availability assessments, local authorities must '...consider accommodation needs and demands for specific groups...' such as the gypsy and traveller communities.

Planning Policy Statement 7 (PPS7), 'Sustainable Development in Rural Areas' states in paragraph 15 that 'planning policies should provide a positive framework for facilitating sustainable development that supports traditional land based activities and makes the most of new leisure and recreational opportunities that require a countryside location. Planning authorities should continue to ensure that the quality and character of the wider countryside is protected and, where possible, enhanced. They should have particular regard to any areas that have been statutorily designated for their landscape, wildlife or historic qualities where greater priority should be given to restraint of potentially damaging development'.

Planning Policy Guidance 13 (PPG13), 'Transport' encourages the use of public transportation and less dependency on the use of private car. Although it is recognised in PPG13 that the use of private transportation in rural areas is likely to be by car, more general guidance on highway safety and the location of development is also given.

#### Development Plan Policies

The Development Plan is the East Midlands Regional Spatial Strategy (RSS8 adopted March 2005 replacing the previous Regional Planning Guidance 8); the Leicestershire, Leicester and Rutland Structure Plan (adopted 7th March 2005) and the Hinckley and Bosworth Local Plan adopted February 2001.

In the Structure Plan Policy 8 (SP8) is relevant. The ethos of the policy is to restrict development in the open countryside. It states that the '...countryside will be protected for its own sake.' It also states that 'development in the countryside will only be acceptable if the general appearance and character of the landscape and the countryside is safeguarded or enhanced'.

All development proposals are subject to Policy BE1 of the Local Plan. Policy BE1 of the adopted Local Plan seeks to ensure a high standard of design in order to secure attractive development; to safeguard and to enhance the existing environment and to ensure that there is adequate highway visibility. The policy provides a set of design and amenity criteria with which to assess all new development.

Policy NE5 of the Local Plan seeks to protect the countryside for its own sake and any development having a significant adverse effect on the appearance or character of the landscape will not normally be appropriate.

The site is located within a local Landscape Improvement Area of open countryside as well as The National Forest, as defined in the adopted Hinckley and Bosworth Local Plan. Policy NE5 "Development in the Countryside" seeks to protect these areas for their own sake whereas the designation of Local Landscape Improvement Areas provides a focus for

environmental improvement measures such as tree planting, landscaping and screening on land identified as being of poorer landscape quality (Policy NE10).

In terms of the principle of development within the National Forest, the Borough Council will only grant planning permission for built development where it is of a high quality incorporating design and materials which reflect the setting of the proposal in the forest. (Policy NE21).

Policy NE14 of the Local Plan states that 'Planning Permission will not be granted for development proposals which will adversely affect the water quality and ecology of watercourses and groundwater resources unless satisfactory arrangements are made for the disposal of foul sewage, trade effluent and surface water'. In paragraph 5.15.6 of the Local Plan the reasons as to why this policy has been adopted are explained, and it states that 'wherever possible new development should be connected to the public sewage system' and that 'the proliferation of small-scale private package sewage plants will be discouraged'

Policy T5 of the Local Plan relates to highway design and vehicle parking standards. This policy states that development and changes of use that involve new accesses, new highways or other works, the highway design standards will apply.

Policy RES13 of the Local Plan (page 50 and 51) states that as an exception to the countryside restraint policies gypsy caravan sites may be acceptable forms of development provided all the following criteria are satisfied:-

- a) it is located within a reasonable distance of local services and facilities, e.g. shops, hospitals and schools;
- b) it will not have an adverse effect on the amenities of neighbours;
- c) it will not have an adverse effect on the character and appearance of the countryside;
- d) it has acceptable vehicular access and provision for parking and servicing;
- e) it incorporates substantial peripheral landscaping; and
- f) it does not conflict with any other policies of the Local Plan.

### **Appraisal:-**

It is considered that the main issue is whether or not material considerations outweigh adopted Development Plan policies to such an extent that temporary consent should be granted.

Material considerations that are relevant in this application are: -

- a) the nature of the previous planning application, enforcement proceedings and appeal decision
- b) the nature of this new planning application for temporary permission
- c) the impact of planning policy guidance.

Section 1: The nature of the previous planning application, enforcement proceedings and appeal decision

The application site forms part of a larger piece of land which has been in the ownership of local travellers for some considerable time and it is understood that the current owner and applicant acquired the land nearly 12 years ago.

The applicant and his family are locally based travellers. They have lived on various authorised sites when in the area including a period in a permanent dwelling. Their status as gypsies was confirmed in the Planning Inspector's decision letter and is not in dispute. The establishment of a gypsy caravan site can be an acceptable exception to the normal

restrictive policies governing development in the countryside (Policy RES 13). However, it is necessary that various criteria are met for such an exception to be considered favourably, particularly in relation to safe access and assimilation into the landscape.

The previous planning application decision notice dated 28th January 2004 states the following reasons for refusal that the development represents an unacceptable and inappropriate visual intrusion into a sensitive rural area where the Local Authority is seeking to improve the character and appearance of the countryside for the benefit of public access and informal recreation; The development, if permitted would lead to an intensification in turning traffic onto and off a section of Class III road at a location in open countryside where other motorists would not anticipate such manoeuvres. The vehicular access is also substandard in terms of visibility, both to and from emerging vehicles and inadequate evidence has been provided to demonstrate that the foul drainage arrangements for the development are acceptable in terms of the protection of surface waters and ground water quality.

The enforcement notice required the following actions to be taken by the applicant in order to remedy the breach of planning control; cease using the land as a site for caravans and/or mobile homes and portable buildings; remove all caravans and/or mobile homes and portable buildings from the land; remove all motor vehicles and equipment from the land which are not ancillary to the agricultural use of the land; remove all hard standing and hardcore materials from the land; reduce the fencing erected on that part of the land fronting Heath Road, Bagworth to 1 metre above ground level and remove all resulting materials from the land and reinstate the land by topsoiling and then seeding with appropriate meadow mix or grass seed. Applicant should have implemented the requirements of the Enforcement Notice and vacated the site on or before 6th January 2006. The applicant failed to comply with the Enforcement Notice.

In summary, the Inspector found that the impact of the development upon the character and appearance of the open countryside was a 'significant intrusion into the rural landscape' being contrary to adopted Development Plan policies, and that it 'falls well short of the acknowledged visibility standards' The Inspector considered other material considerations when determining water environment was taken into consideration; the Inspector also considered the appellants gypsy status and gave consideration to the applicant's human rights.

Section 2: The nature of this new planning application for temporary permission

An important distinction needs to be borne in mind between this application before us, and the previous planning application. The previous 2003 planning application was for a permanent private gypsy site whereas this application is for temporary permission limited to two years. It is considered that this planning application is therefore materially different.

The applicant has outlined the reasons as to why this application has been submitted. His reasoning has been explained by the Leicestershire County Council's Gypsy Liaison Officer ("GLO") in his report dated 30th May 2006 (extracted above in this report). The GLO states that the applicant has '...clarified the reasons for requiring temporary permission for a period of two years'. The applicant's reasons for applying are clearly stated in this report.

It is important to consider two aspects raised by the applicant via the GLO. Firstly, guidance provided by the Borough Council to the applicant in finding a suitable alternative site or accommodation. Secondly, the issue raised by the applicant via the GLO with regards to the GTAA.



### Guidance offered to the applicant

Firstly, paragraphs 53 to 55 (as quoted above) of the Inspectors' decision letter need to be given significant material weight. This is now more important in the light of the new Circular. Should this application be refused for temporary planning permission then a report will need to be presented to the Planning Committee explaining what further enforcement action could be taken in order to pursue the extant notice. However, in any event the Borough Council will need to demonstrate that the recommendations of the Planning Inspector's decision letter have sufficiently been implemented in a reasonable and practicable manner. Further consideration needs to be given to this aspect.

The applicant via the GLO's report states that the applicant has '...had one verbal conversation suggesting that planning permission may be granted for additional pitches to the site at Garlands Lane [locally known as the "Morrisons" site in Bagworth] to accommodate them...' The applicant has been advised verbally of possible alternative bricks and mortar accommodation, which is not acceptable to him and his family, or to relocate to the Garlands Lane gypsy site. Although the applicant had indicated that this may well be a possibility, he has now stated to the GLO that '...this site [Garlands Lane] no longer wants to provide any more pitches. No other attempt has been made in the last year to find alternative accommodation for the whole family'.

It is clear that the Inspector specifically varied the compliance period to one year so that the applicant could make arrangements, but the onus to advise the applicant in finding alternative accommodation has also been placed upon the Borough Council.

It may be viewed that by verbally offering advice of alternative options to the applicant - for example, social housing and relocation to Garlands Lane site - is sufficient to meet the recommendations of the Inspector. However, the Borough Council as a local authority has responsibilities under other legislation for example under housing and homelessness legislation. Therefore, should this planning application be refused and further enforcement action authorised in the future then due consideration will need to be given to the issue of homelessness and the Borough Council's responsibilities.

It is the responsibility of the Borough Council under other legislation to provide suitable accommodation to those who would be made homeless due to its [the Councils] actions. Where such circumstances are presented to the Borough Council it would be expected that certain concrete steps are taken and demonstrated in order to provide temporary accommodation for those made homeless due to the taking of enforcement action.

Returning to the case in hand, the Inspector refers to the applicant's submission during the Public Inquiry that two years would be sufficient for him [applicant] to '...find, acquire and get planning permission for a new site, if this were necessary'. The Inspector also stated that the Council's submission that the site could be vacated and the land reinstated relatively quickly was borne in mind when reaching a balanced decision.

The question facing the Local Planning Authority is; have sufficient steps been taken in one year by the Borough Council since the decision letter in order to meet the generality of paragraphs 53 - 55, and more specifically whether or not verbal advice to the applicant of a possible relocation to Garlands Lane site is sufficient to meet the legal requirements placed upon the Borough Council?

The fact that the only way the applicant could relocate to the Garlands Lane site would be if that site's extension by the submission of a future planning application. Any such application would need to take its own course and be determined by the Borough Council. Therefore, any assumption that relocation to this site is feasible remains conditional on the outcome of such an application, if made, to the Borough Council.

The Borough Council's Housing department together with GLO have been requested to conduct a joint interview with the applicant in the near future in order to identify the needs of the applicant and his family. Alternative accommodation and possible solutions would also be identified and documented. This process could include discussions with the applicant over a reasonable period of time. An interview would be followed up with a written report to the GLO and applicants identifying what arrangements, if any, have been presented to the applicant. It is considered that these steps would need to be taken in order to demonstrate that reasonable steps have been taken by the Borough Council in order to address the Inspector's recommendations. These steps are all the more necessary to address paragraphs 53 to 55 of the Inspector's decision letter, in the light of the new Circular, because this would formally involve the Borough Council's Housing department.

#### The Gypsy and Traveller Accommodation Assessments ("GTAA")

The applicant and the GLO report refer to the 'Gypsy and Traveller Accommodation Assessment'.

The Borough Council, together with other Leicestershire authorities, is now part of a County wide 'Gypsy and Traveller Accommodation Assessment' ("GTAA") partnering agreement. It is understood that consultants have been appointed to carry out a needs assessment for gypsy and travellers in the County and their initial findings anticipated to be reported around the summer of 2007.

The GLO report considers that '...two years would give Hinckley and Bosworth Borough Council enough time to consider the findings...' of the GTAA that is currently being carried out. The GLO report further states that the GTAA findings will feed '...into the Development Plan Document...' and that this period of time will allow the Borough Council to '...work with [the applicant] in locating a suitable site for himself and his ever expanding family'. The report also states that the applicant would '...consider a land swap if an alternative site could be found'.

#### Section 3: The impact of planning policy guidance

This location is unsuitable for a permanent gypsy caravan site. It has been held on appeal that this development is contrary to adopted Development Plan policies.

The previous 2003 planning application was refused on the grounds that the development did not satisfy a criterion-based policy for assessing applications for private gypsy and traveller sites. Policy RES13 of the adopted Development Plan is still applicable to this application. However, the application for temporary permission whilst the GTAA can be carried out, and its findings reported in 2007, needs to be considered in the light of the new Circular on gypsy and traveller sites. Members may recall the report to last committee on the Circular.

The GTAA is a requirement for all local authorities and the allocation of public sites would need to be considered via Development Plan Documents that form part of the Local Development Framework. The new Circular provides advice and guidance on 'transitional' arrangements, and also explains how Local Planning Authorities should consider applications for private gypsy sites.

There are specific paragraphs in the new Circular that require consideration. For example, in paragraph 53 it states that '...local landscape and local nature conservation designations should not be used in themselves to refuse planning permission for gypsy and traveller sites'. In Paragraphs 58 - 63 give guidance on planning applications submitted by gypsies for private sites and its states that 'the aim should be as far as possible to help gypsies and travellers to provide for themselves, to allow them to secure the kind of sites they need, but

in locations that are appropriate in planning policy terms'. In paragraph 66 highway considerations are discussed and advise that '...projected vehicle movements for gypsy and traveller sites should be assessed on an individual basis for each site'. It further states that proposals should not be rejected if they would '...only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant'.

Of significance is the guidance contained within Annex F of the new Circular. In point 1 it states that the 'appropriate use of planning conditions... can enable some development proposals to proceed where it might otherwise be necessary to refuse permission'.

It is considered that provided reasonable and enforceable planning conditions are attached to any new t planning permission, temporary permission satisfies the guidance contained within the new Circular.

Members may consider that a precedent could be set should this application be acceptable. The issue in relation to this planning application are specific to this site only. Therefore, it is difficult to consider that should temporary consent be granted for the reasons outlined above, then other similar application would be difficult to resist because the circumstances in this case are unique, and all planning applications should be assessed on their merits.

The highway objection is exactly the same as the previous consultation response. Whilst concerns expressed by the local highways authority are understandable, it is considered that on this occasion there are other material considerations that should override their objection. The applicant has been on the site since about 2003. The local highways authority has acknowledged that there have been no reported incidents of accidents or personal injury since that time. Despite this the access has and is currently intensively being used with slow moving vehicles moving on and off the site.

A grant of temporary permission will not prejudice any future enforcement action should this be necessary. The GTAA for the Borough may in fact reveal that due to the high number of existing authorised pitches within Hinckley and Bosworth area, as acknowledged by the Inspector determining the appeal against refusal of planning permission of the 2003 application, and reported by the ODPM in their bi-annual counts, there are no need for additional pitches in the district. Or it may reveal that the only requirement is for a public site. Once these findings have been established by the survey the future of this application site can be assessed more effectively.

Members may also be aware that where there are special circumstances the Borough Council has 'tolerated' unauthorised gypsy sites. It is considered that due to the uncertainty posed by the on-going GTAA survey, and that no alternative arrangements have been sufficiently presented to the applicant by the Borough Council, toleration of this site via the grant of temporary consent again will not prejudice any future enforcement action.

If Members were minded to approve the application for temporary permission whilst the Borough Council conducts the GTAA, and works with the applicant to find alternative accommodation, then this would place the Borough Council in a stronger and better position in the future if further enforcement action were needed. Therefore, it is recommended that the temporary period should be until August 2007.

On the other hand, if Members were minded to refuse the application then a further report outlining Planning Enforcement strategy for the site would need to be presented to Planning Committee in the future. The applicant would have the right to appeal against refusal of this application.

It is considered that the conditions attached to this recommendation satisfy the new Circular's requirements as set out in Annex C of the new Circular as well as guidance contained within Circular 11/95 'The use of conditions in planning permission'.

**RECOMMENDATION :- Permit subject to the following conditions :-**

- 1 This development shall expire on **31st August 2007**.
- 2 This permission shall operate solely for the benefit of the applicant and shall not run with the land.
- 3 There shall not be more than four (4) mobile homes and/or caravans at any one time on the land edged in orange on the approved plan.
- 4 The land edged in orange on the approved plan shall only be used as a gypsy site for the applicant and his immediate family and for no other purpose throughout the duration of this permission. No caravans and/or mobile homes will be stationed on the land.
- 5 Within one month of this approval details of the proposed foul drainage system shall be supplied to, and agreed in writing by the Local Planning Authority. The agreed details shall be implemented within one month of details being agreed in writing and no alterations or amendments to the agreed scheme shall be implemented without written approval from the Local Planning Authority.

**Reasons :-**

- 1 The development is for temporary permission only.
- 2-4 For the avoidance of doubt.
- 5 To ensure satisfactory drainage of the site.

**Notes to Applicant:-**

- 1 This permission has been granted under special circumstances and is for temporary permission. The Borough Council will conduct a Gypsy and Traveller Accommodation Assessment and the findings of that assessment will not prejudice any future planning application or enforcement action. The applicant is advised to find an alternative site within this period and to seek planning advice from the Local Planning Authority.

Contact Officer:- A Ghafoor Ext 5775

**Item: 03**

**Reference: 06/00288/FUL**

**Applicant: Mr And Mrs P Brewer**

**Location: Land Rear of No 1 New Street Barlestone Nuneaton Warwickshire**

**Proposal: DETACHED DWELLING**

**Introduction:-**

A decision on this application was deferred by Members at their last meeting on 23 May 2006, to enable a site visit to be made and for the applicant to consider reducing the size of the dwelling.

A letter from the applicant has been received in response to a request for further reductions to the scheme. The applicant considers that sufficient compromises have been made through previous discussions with Officers which resulted in the application being recommended for approval. It is the applicants wish that the application be determined in its current form and to assist artist's impressions of the scheme will be submitted. As such it is considered that the previous report and recommendation stand and are repeated below for Members information.

This is a full planning application for the erection of a two and a half storey dwelling on land off Newbold Road currently forming part of the rear garden of No 1 New Street which is the end property of a terrace of six properties. The development site occupies a prominent location in the street scene and is currently occupied by a large shed. A previous application for a much higher dwelling on the site was withdrawn following negotiations with Planning Officers.

The proposed development site is located on the edge of the commercial heart of the village. The eastern boundary of the site fronts Newbold Road although the proposed site is approximately one metre above pavement level. To the west are the rear gardens of the other properties in the terrace and to the north is the gable of the modern two storey extension to No 4 Newbold Road, a semi-detached property.

A site analysis, design statement and street scene has been submitted in support of the application. These indicate that the proposal has been designed to respect the character and amenity of the surrounding dwellings.

#### **History:-**

05/01349/FUL	Erection of detached dwelling and vehicular access	Withdrawn	06/02/06
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#### **Consultations:-**

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

The Borough Council's Land Drainage Consultant  
Director of Highways, Transportation and Waste Management (Highways).

The Head of Health and Environmental Services has no comments on the proposal.

Neighbours notified and 5 letters of response have been received raising the following concerns:-

- a) the proposed dwelling is out of character with the area
- b) the vehicle visibility splays and car parking arrangements are inadequate
- c) the proposed building will restrict daylight and overlook nearby properties, particularly No 4 Newbold Road and No 2 and No 3 New Street
- d) the property will restrict the view from No 4 Newbold Road also No2 and No 3 New Street
- e) the property should be set behind the existing wall to No 4 Newbold Road
- f) the building works will cause disruption in the area and impact directly on the drainage and foundations of No 3 New Street
- g) the proposed development will have a detrimental impact on property values
- h) the levels proposed for the building are unclear.

## **Development Plan Policies:-**

Policy RES5 assesses residential proposals for development on unallocated sites. It states that on those sites which are not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within the settlement boundary and the siting, design and layout of the proposal does not conflict with the relevant plan policies.

Policy BE1 seeks to ensure high quality design to secure attractive development and to safeguard and enhance the existing environment. Development should complement and not adversely affect the surrounding area or adjacent properties, and ensure adequate amenity and privacy.

Policy T5 aims to apply the County Council highway standards and parking standards to new developments.

The Borough Council's Supplementary Planning Guidance on new residential development seeks to achieve high standards of design to ensure that the quality of the environment is retained or wherever possible, enhanced.

The Borough Council's Supplementary Planning Guidance on Play and Open Space would usually seek a financial contribution for the provision and maintenance of play and open space of £1,850 for a single dwelling where facilities cannot be provided within the site.

## **Appraisal:-**

The site lies within the settlement boundary and the principle of developing the plot is considered acceptable. It is necessary to assess the proposal against the relevant plan policies, particularly in respect of siting and access and the potential impact on the character of the area and amenities of neighbours.

### Design and character of the area

The application site lies within an area of mixed dwelling types from many different historic periods. In addition to Victorian terraces, these include modern detached properties and historic properties with modern frontages or large modern extensions. Existing buildings are either two or two and a half storeys in height and are set back away from the main road behind short front gardens or hard surfacing. Typical architectural features include segmental arched windows, slate or tiled pitched roofs, brick or rendered elevations, plain gables and chimneys.

The elevational treatment of the proposed dwelling incorporates several of these traditional features. It also successfully achieves the transition between the high end gable of the Victorian terrace property of 1 New Street and the large modern extension to No 4 Newbold Road by being stepped in both plan and height. The impact on neighbouring properties has been further reduced by setting the ground floor of the dwelling at pavement level, approximately one metre below the existing garden level.

Officers are of the opinion that this new dwelling will be an improvement to the street frontage if permission is granted to replace the existing large shed, which currently occupies the site.

### Privacy and outlook

The principle windows of all habitable rooms in the proposed dwelling face Newbold Road. All other windows are below boundary fence level or obscured glazed. In regard to the

impact on the private amenity space of No's 2, 3 and 5 New Street, it is considered unlikely that the two storey dwelling in this location at the end of the garden, will have an unduly detrimental impact on the occupiers of these two dwellings. The building is also at pavement level and dug into the site, which further reduces its impact on neighbouring properties

It is also recognised that the private amenity space provided for the dwelling and No 1 New Street is below the Council's normal standards. However the proposed dwelling will replace the existing unattractive shed offering the major benefit of improving the street scene.

#### Parking and Access

Adequate off street parking provision has been provided in accordance with the Highway Authority's standards, which for the proposed three-bedroom property is two spaces. The Highway Authority has raised no objections to the proposal subject to standard conditions. They comment that speeds on Newbold Road are restricted due to the bend and there is adequate stopping distance towards a vehicle emerging from the new access.

#### Other Considerations

The impact on property values is not a material planning consideration, nor is the nuisance caused by the construction works, which are of a temporary nature.

The Borough Council's Land Drainage Consultant recommends that soakaways are incorporated into the proposal or it should be demonstrated that an alternative surface water disposal exists. Potential structural problems are civil matters between those affected.

A contribution of £1,850 is required towards the short fall in play and open space to meet the requirements of the Parish Public Open Space Quality/Accessibility Audit 2005 and the Supplementary Planning Guidance.

#### Conclusion

The proposal will achieve adequate off-street parking and private amenity space within the curtilage of the dwelling. The impact of the proposals on the amenity of the occupiers of the adjacent dwellings is not considered to be sufficient to warrant refusal of the application. The proposed development is considered acceptable in terms of Policies RES5, BE1 and T5 of the adopted Hinckley and Bosworth Local Plan and to the Council's Supplementary Planning Guidance on New Residential Development.

### **RECOMMENDATION :- Permit subject to the following conditions :-**

**SUMMARY OF DECISION** - The proposal is in conformity with Policy/Policies BE1, REC2, REC3 and T5 of the adopted Hinckley and Bosworth Local Plan. Planning permission is granted subject to conditions.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 This permission relates to the application as revised by amended plan 3512/01B received by the Local Planning Authority on 26 April 2006
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling and the boundary treatment 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.

- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A-H (inclusive) shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.
- 5 The development hereby permitted shall not commence before the provision and maintenance of off-site open space or facilities whether by off-site physical provision or financial contributions as required in accordance with policy REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan and the approved Play and Open Space Guide has been secured in such a manner as is approved in writing by the Local Planning Authority.
- 6 No gates shall be erected to the vehicular access.
- 7 Any garage doors shall be set back from the highway boundary a minimum distance of 5 metres for sliding or roller/shutter doors, 5.6 metres for up-and-over doors or 6 metres for doors opening outwards and thereafter shall be so maintained.
- 8 Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the public highway and thereafter shall be so maintained.
- 9 The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided before the dwelling including the garage space is first occupied and shall thereafter permanently remain available for such use unless otherwise agreed in writing by the Local Planning Authority.
- 10 Before first occupation of the dwelling hereby permitted, its access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times.
- 11 Before first occupation of the dwelling hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above ground level and shall be so maintained in perpetuity, where in the control of the applicant.
- 12 The gradient(s) of the access drive(s) shall not exceed 1:12 for the first 5 metres behind the highway boundary.
- 13 No development shall commence on site until such time as the existing and proposed ground levels and proposed finished floor, ridge and eaves levels have been submitted to and agreed in writing by the Local Planning Authority. The proposed levels shall then be implemented in accordance with the approved details.

**Reasons :-**

- 1 To comply with the requirements of Section 18 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 2 To define the permission.
- 3 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.



- 4 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure the provision of public open space to accord with policies REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan.
- 6 To enable a vehicle to stand clear of the highway to protect the free and safe passage of traffic including pedestrians in the public highway.
- 7 To enable a vehicle to stand clear of the highway to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 8 To enable a vehicle to stand clear of the highway whilst the gates are opened/closed to protect the free and safe passage of traffic including pedestrians in the public highway.
- 9 To reduce the possibility of surface water from the site being deposited in the highway causing danger to road users to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 10 To reduce the possibility of the proposed development leading to on street parking problems.
- 11 To reduce the possibility of deleterious material being deposited on the highway to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 12 To ensure that an adequate line of vision is available in the interests of road safety to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 13 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 14 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

**Notes to Applicant:-**

- 1 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.
- 2 The suitability of the ground for soakaways should be ascertained by using the test in B R E Digest No. 365 before development is commenced. The porosity test and soakaway design requires the approval of the Building Control Section. The soakaway must be constructed using concrete ring sections with a liftable cover or other approved materials to the satisfaction of the Local Authority.

**Contact Officer:-** B Whirrity Ext 5619

**Item:** 04  
**Reference:** 06/00294/FUL  
**Applicant:** Mr B Stockton  
**Location:** 19A Sapcote Road Burbage Hinckley Leicestershire LE10 2AS  
**Proposal:** EXTENSIONS AND ALTERATIONS TO DWELLING

**Introduction:-**

This full application seeks planning permission for a first floor extension over an existing single storey rear projection and the addition of pitched roofs to existing flat roofed dormer windows, single storey front projection and side garage at 19a Sapcote Road, Burbage. The site is located on the north side of Sapcote Road and is accessed from a private drive between no.'s 15a and 23 Sapcote Road. The site consists of a detached dwelling that is single storey with large dormer windows providing rooms in the roof. At the front of the dwelling the larger dormer window has a gabled roof whilst a further smaller dormer window and a dormer window spanning the width of the dwelling to the rear currently have flat roofs.

This application is being reported to Planning Committee at the request of a Member of the Borough Council.

**History:-**

No relevant history.

**Consultations:-**

No objections have been received from:-

Head of Health and Environment  
Borough Council's Land Drainage Engineer  
The Director of Highways, Transportation and Waste Management.

Burbage Parish Council objects on the following grounds:-

- a) Impact on no. 19 Sapcote Road
- b) two storey extension will be within 2.4 metres of the neighbours habitable rooms.

Neighbours notified, 1 letter received raising the following concerns:-

- a) loss of light
- b) loss of views
- c) impact on Bat Nursery roost.

**Development Plan Policies:-**

The site lies within the settlement boundary for Burbage, as identified in the adopted Hinckley and Bosworth Local Plan.

Policy BE1 of the adopted Hinckley and Bosworth Local Plan seeks a high standard of design in order to secure attractive development and to safeguard and enhance the existing

environment. It provides measures to ensure development does not have an adverse impact on the environment; occupiers of neighbouring properties; or highway users.

Policy RES7 of the adopted Hinckley and Bosworth Local Plan provides that householder development: respects the scale and character of the existing dwelling and streetscene; retains adequate parking provision; is designed to mirror the existing building to create an unified overall appearance; does not adversely affect the occupiers of neighbouring properties; and is carefully sited.

Policy T5 of the adopted Hinckley and Bosworth Local Plan provides advice on the requirement for parking provision and highway design.

The Council's Supplementary Planning Guidance for new house extensions sets out additional criteria for layout and design.

### **Appraisal:-**

The application seeks approval to add gabled roofs to the existing flat roof dormer windows. At the front of the property one dormer window will gain a gabled roof that measures approximately 3.2 metres wide by 1.5 metres high. At the rear of the property the flat roof dormer that spans the full width of the dwelling will be split into three sections, the section to the east of the house that measures approximately 3.5 metres wide by 1.6 metres high and the centre section that measures approximately 2.8 metres high by 1.2 metres wide will gain gabled roofs. The remaining section will form part of the extension discussed in detail below. The addition of gabled roofs to these existing flat roof dormer windows will mirror the existing features of the property and is considered acceptable.

The proposal includes the addition of a hipped roof at the front of the existing flat roofed garage that will also cover a small flat roof projection at the front of the property. There is a further hipped roof at the rear of the garage with a monopitch roof covering the remainder of the garage spanning between the two hipped roofs. The applicant has stated that this roof design is required due to the location of a side window in the east elevation of the existing dwelling. Whilst the introduction of a hipped roof on this property would not be encouraged it is not considered that it would have an unduly adverse impact on the appearance of the dwelling and as such this element of the proposal is considered acceptable.

The final element of the proposal seeks permission to construct a first floor over an existing single storey rear projection which is approximately 4.1 metres in width and projects approximately 2.4 metres to the rear of the property. The height of the projection will increase from approximately 2.6 metres to approximately 5.1 metres to the eaves and approximately 7 metres to the ridge. The roof will hip back towards the existing dwelling and connect with the main roof. The proposal includes a window that will face north, down the garden.

The proposed extension will create a blank wall within approximately 2.5 metres of the side windows, which serve a bedroom and the lounge, of no. 19 Sapcote Road. However, as this is a second window serving the lounge it cannot be considered a primary window and the impact on this window is not sufficient to warrant a reason for refusal. The bedroom window is the only window serving this room and is considered a primary window. However, this was not originally the case. Following an extension in 1991 to 19 Sapcote Road when the rear window to this room was removed to make way for the extension. Although it is felt that the proposed development will have an adverse impact on the first floor window of 19 Sapcote Road, as this situation was created by extensions to 19 Sapcote Road itself, it is not considered a reason for refusal could be sustained on these grounds. It is considered that all other distances requirements as set out in adopted Supplementary Planning Guidance are complied with.

In conclusion, it is considered that the addition of pitched roofs to this dwelling will have a positive impact on the appearance of the dwelling and whilst the rear extension will affect the first floor window of 19 Sapcote Road this has been created due to an extension to that property, and does not warrant refusal of the application.

**RECOMMENDATION :- Permit subject to the following conditions :-**

**SUMMARY OF DECISION** - The proposal is in conformity with Policies BE1, RES7 and T5 of the adopted Hinckley and Bosworth Local Plan. Planning permission is granted subject to conditions.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials of the existing dwelling unless previously agreed in writing with the Local Planning Authority.
- 3 Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) no window other than those approved under this permission shall be inserted into the west elevation of the proposed extension unless otherwise agreed in writing with the Local Planning Authority.

**Reasons :-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure that the development has a satisfactory external appearance to accord with policy BE1 and RES7 of the adopted Hinckley & Bosworth Local Plan.
- 3 To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 and RES7 of the Hinckley & Bosworth Local Plan.

**Notes to Applicant:-**

- 1 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.
- 2 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.

**Contact Officer:-** D Warden Ext 5691

**Item:** 05  
**Reference:** 06/00334/FUL  
**Applicant:** Fletcher Partners  
**Location:** Woodview Farm Ashby Road Stapleton Leicester LE9 8JD  
**Proposal:** ERECTION OF TWO AGRICULTURAL BUILDINGS

**Introduction:-**

This is a full application for the erection of two agricultural buildings at Woodview Farm, Stapleton. The farm is situated off the A447 Ashby Road immediately south of Woodlands Garden Centre.

Following a purchase of additional land, the application seeks permission for two further buildings. Building one is a proposed milking parlour of rectangular shape extending to 41m by 13m with a ridge height of 6m. This is to be positioned centrally within the existing farm on the site of the current milking parlour which would be demolished. Building two is proposed for cattle housing. This would be positioned adjoining the current farm buildings to the north of the existing cattle housing. Again this would be rectangular in shape and extend to 50m by 26.5m with a ridge height of 8.5m.

The materials proposed for both buildings are similar. Walls are to be constructed of breeze blocks and precast concrete panels. A brick wall of the existing structure is to be retained and reused in the north elevation of building one. Above this timber space boarding is proposed with the roof constructed from cement fibre roof sheets. Building two would have an open side to the west facing the existing slurry lagoon.

The application proposes a landscaped bank to the north of the farm buildings to act as a screen and windbreak.

**History:-**

48/2748	Dutch Barn	Approved	08/09/48
53/3933	Alterations and additions to farm buildings	Approved	15/07/53
4636/55	Bathroom & additional bedroom	Approved	21/07/55
9803/65	Conversion of existing building into dairy and erection of covered yard and silage barn	Approved	23/06/65
89/1011/4	Mobile home	Refused	20/02/90
93/0628	Agricultural Building	Approved	10/08/93

## **Consultations:-**

At the time of writing this report no comments have been received from:-

Severn Trent Water Limited  
Head of Health and Environment  
Site Notice  
Press Notice.

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

The Environment Agency.  
The Borough Council's Land Drainage Engineer.

The Director of Highways, Transportation and Waste Management has raised concerns over the suitability of the access and requested that a condition be imposed requesting additional plans which show a widened vehicular access.

The Leicestershire Constabulary Crime Reduction Officer has no objections but states that the perimeter of the farm should be made as secure as possible and consideration should be given to placing CCTV within the farm complex.

## **Development Plan Policies:-**

The application site is situated outside of the settlement boundary of Stapleton in an area classified as open countryside within the Hinckley and Bosworth Local Plan.

Planning Policy Statement 7, Sustainable Development in Rural Areas, sets out the National Policy for agricultural development. This encourages Local Authorities to support development proposals through Local Development Documents which enable farmers to become more competitive and adapt to changing markets.

Policy NE5 concerns development in the open countryside. This states that development which is important to the local economy which cannot be provided within or adjacent to an existing settlement is acceptable provided that it does not have an adverse impact on the character of the landscape and it is in keeping with the scale and character of existing buildings.

The Design of Farm Buildings Supplementary Planning Guidance addresses the siting, design and materials of new agricultural buildings. This states that new buildings should form part of a group and not stand in isolation, visual impact can be addressed through tree screening, and that sub division of the wall materials can unify the building and reduce its apparent height.

## **Appraisal:-**

The proposed agricultural buildings are required to replace existing outdated facilities and following the purchase of adjoining land. There are no concerns with regards to the agricultural need of this proposal.

Details submitted with the application state that only six further annual deliveries will be required a year. The Highways Authority have requested the imposition of a condition to improve the farm access to accommodate the additional traffic which is acceptable to the applicant.

Building one is proposed to be located centrally to the existing farm buildings and therefore will be generally hidden from external view. The buildings being replaced are a mixture of older and more modern farm buildings and are not considered worthy of retention. In any case, the buildings could be removed without any further permission.

Building two is proposed to be located adjacent to the existing farm buildings. This will be visible from the A447 and from Woodlands Garden Centre. The building has been orientated so that the shortest elevation faces the road which is some 220m distant. A number of trees line the road and field boundaries which will screen the building to a degree when approaching from the north, while the existing farm buildings and protected trees along the farm access drive will entirely hide the proposal when approaching from the south.

The heights of both buildings are comparable with existing buildings. Building two will have a lower ridge height than the existing adjacent building.

The application proposes further landscaping the north of building two. This is proposed at the field boundary and will be raised using top soil from the site. Trees are proposed both as a screen and a windbreak. Further details of this proposal will be required by condition.

The proposed siting, design and external appearance of the agricultural buildings are considered to be satisfactory in that they are sited with existing buildings and sufficiently screened from public view so as not to appear unduly prominent.

**RECOMMENDATION :- Permit subject to the following conditions:**

**SUMMARY OF DECISION** - The proposal is in conformity with Policy/Policies NE5, NE12 and BE1 of the adopted Hinckley and Bosworth Local Plan. Planning permission is granted subject to conditions.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
  - (i) planting plans
  - (ii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
  - (iii) implementation programme.
- 3 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft 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.
- 4 Notwithstanding the submitted plans, before development commences details of an altered vehicular access shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority. Such details shall include a widened vehicular access width of a minimum effective width of 6 metres for a distance of at least 15 metres behind the Highway boundary, hard surfacing for a distance of at least 15 metres behind the Highway boundary, gates set back 15 metres from Highway boundary, 10 metre control radii and improved visibility splays. The approved vehicular access alterations shall be

provided before the first use of the proposed development and once provided shall thereafter be so maintained in perpetuity.

**Reasons :-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2&3. To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 4 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.

**Notes to Applicant:-**

- 1 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.
- 2 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 (01530 262380)
- 3 The discharge of clean surface water to a pond for re-use is good practice but only if other surface water contaminated by animal waste, i.e. that from yards or wash down water from livestock areas, is excluded and dealt with in accordance with the Silage, Slurry and Agricultural Fuel Oil Regulations 1991.
- 4 Attention is drawn to the comments of the Environment Agency, in their letter dated 10th May 2006, a copy of which is enclosed.

Contact Officer:- P Metcalfe Ext 5740

**Item: 06**  
**Reference: 06/00336/FUL**  
**Applicant: Mr Peter Child**  
**Location: 1A Main Street Dadlington Leicestershire**  
**Proposal: ALTERATIONS TO DWELLING**

**Introduction:-**

This retrospective application relates to the retention of two 'Velux' style rooflights that have been installed in the dwelling in the wrong position, ie approximately 220mm lower on the roof plane without planning approval.

Members may recall that planning permission was granted for the erection of one dwelling (planning application reference 04/00167/FUL approved 16th November 2004) which included two rooflights on the rear elevation.



The supporting letter from the applicant states that the reason why the development does not accord to the 2004 approved plans is due to the builder not adhering to the planning drawing, but instead following the Building Regulation drawings. The applicant states that the difference of 220mm relating to the 'Velux' windows position was unfortunately due to the builder taking his measurements from the Building Regulation drawings of May 2005, copies of which have been enclosed in the planning application herewith.

### **Consultations:-**

Sutton Cheney Parish Council objects to the proposal and express great concern over alleged breaches of previous planning conditions.

One neighbour letter received in support of the planning application, stating that the development is of excellent design and built quality and is sympathetic with its surroundings.

One neighbour letter has been received raising the following concerns:-

- a) that the Borough Council needs to confirm that the height of No.3 Main Street is actually 7.5 - 8 metres in fact, by an independent body
- b) that the 2004 planning application initially proposed dormer style windows to the rear that were unacceptable due to loss of privacy
- c) that the increased height of these windows indicates that at a future date dormer windows could be installed
- d) the windows at the rear will have detrimental impact upon their privacy overlooking their garden and bungalow
- e) that the visibility line has not been implemented
- f) Installed patio doors
- g) the existing windows give visibility into 2 bedrooms
- h) that the distance between the two properties is 13.8 metres
- i) that the height of the actual dwelling is not in accordance to approved plans.

### **Development Plan Policies:-**

Planning Policy Guidance 18 (PPG18) 'Enforcing Planning Control' is applicable in that when considering planning enforcement it must be expedient and proportionate in relation to the breach of planning control.

The site is within the settlement boundary as defined in the Hinckley and Bosworth Local Plan.

Policy BE1 of the Local Plan states that planning permission for development proposals will be granted where they complement or enhance the character of the surrounding area; where they ensure adequate highway visibility and parking standards; where they do not adversely affect the amenities of neighbouring properties; where they incorporate landscaping to a high standard; and where they would not be prejudicial to comprehensive development of a larger area of land which the development forms part.

### **Appraisal:-**

The 2004 permission expressly limited the development to accord with drawing number 04/00167A/FUL. This drawing illustrates that the rooflights measure approximately 1100mm x 1100mm and are to be inserted between 450 - 500mm above eaves height. The two rooflights inserted in the rear elevation accord with drawing in size terms (1100mm x 1000mm) but are positioned approximately 250mm off eaves level not 450 - 500 mm.

The occupants of the dwelling to the rear of 1A Main Street (a bungalow known as 'Broadlands Farm') strongly assert that at some date in the future these rooflights will be converted into dormer windows, thus infringing their right to privacy. They strongly objected to the original application submitted by the current applicant, because that proposal illustrated dormer windows to the rear. Through effective negotiations, recognised by the complainant, the original scheme was amended by deleting the dormer windows to the rear and inserting rooflights instead. A valid condition was imposed that the development shall be in accordance with plan reference 04/00167A/FUL. These plans show rooflights in the positions marked out.

The rooflights are designed to allow daylight into loft space/rooms where standard windows are not practicable. The issue for consideration is whether the development, as built, impacts upon the residential amenity of neighbouring properties to such an extent that refusal is justified.

Although the main complainant views that any type of windows to the rear elevation would infringe upon their privacy, it is unlikely that these specific rooflights would cause the loss of privacy to the occupants of the bungalow to the rear that in itself justifies refusal, because rooflights are specifically designed to restrict outlook, whilst improving daylight.

By not adhering to the approved plans the applicant admits that the development is unauthorised. But by applying guidance contained within Planning Policy Guidance Note 18 'Enforcing Planning Control' it would not be expedient to take enforcement action where planning permission would, in any normal circumstance, be granted.

It is considered that this planning application regularises the current position and is acceptable. The plans now illustrate that the rooflights are as stated above in their built position, the overall ridge height is between 6.5metres to 6.9metres. Having measured the ridge of the dwelling on site it is considered that the overall height is acceptable (falling between 6metres to 6.3metres far less than approved).

Furthermore, the occupant of the bungalow to the rear also states that in their opinion the dwelling appears to be in line with the adjacent dwelling (No. 3 Mains Street). The actual site plan indicates that the new dwelling would be set approximately 2metres back from the adjacent dwelling. This creates an 'optical illusion' in that at the front elevation the dwelling would appear lower than the adjacent dwelling. To the rear (as viewed from the property to the rear known as Broadlands Farm) the dwelling appears in line with the adjacent dwelling. Again the overall height of the new dwelling (No.1A Main Street) does not have a material impact upon the reasonable amenities of the bungalow to the rear sufficient enough to warrant enforcement action, because of the way the new dwelling has been designed.

With regard to the insertion of patio doors in lieu of a window, this has been dealt with as a minor amendment.

It is considered that those concerns raised by the complainant relating to planning and planning enforcement have sufficiently been dealt with.

**RECOMMENDATION:- Permit unconditionally.**

**Notes to Applicant:-**

- 1 The applicant is advised that the planning conditions attached to planning permission reference 04/00167/FUL must be complied with and this permission does not override, replace or alter those conditions in any way.

Contact Officer:- A Ghafoor Ext 5775

**Item:** 07  
**Reference:** 06/00348/FUL  
**Applicant:** Simon Thompson  
**Location:** Land Off Chapel Hill Groby Leicester LE6 0FE  
**Proposal:** RESIDENTIAL DEVELOPMENT (NINE UNITS)

**Introduction:-**

This is a full application for the residential redevelopment of a redundant commercial site to provide 9 new dwellings. An application for Conservation Area consent to demolish the majority of the existing buildings on the site together with alterations and repair to existing stone boundary walls follows on this agenda (ref. no. 06/00422/CON).

The site is close to the centre of the village and adjacent to a Listed Building known as 20 Chapel Hill. There are residential properties to the east, west and south and commercial uses to the north. Access is from the north off Chapel Hill which runs to the north-east and south-east of the site, with Ratby Road running to the north-west. The steeply sloping site measures 0.23 hectares in area and is defined by existing stone boundary walls for a majority of its perimeter.

The application proposes two 2 bedroom houses and six 3 bedroom houses together with conversion and extension of the existing stone "barn" building on the corner of Ratby Road and Chapel Hill at the northern most part of the site to create a further 3 bedroom dwelling.

The design statement accompanying the application identifies the importance of retaining the prominent focal stone building at the northern corner of the site together with the existing stone boundary walls that contribute to the character and appearance of Groby Conservation Area, and that any redevelopment of the site should also respect the setting of the adjacent Listed Building. The layout of the dwellings has been dictated by these features together with the sloping nature of the site and the existing vehicular access off Chapel Hill.

**History:-**

96/00925/TEMP	Retention of Portable Office Accommodation	Refused	05/02/97
96/00263/FUL	Alterations to Elevation	Approved	30/05/96
96/00256/TEMP	Siting of Temporary Portable Building to provide Office Accommodation	Approved	29/05/96
88/0681/FUL	Hardstanding for Vehicle Wash Area and Security Lights	Approved	08/06/89

**Consultations:-**

No objection has been received subject to standard conditions from:-

Head of Health and Environment  
 Borough Council's Land Drainage Engineer.

Director of Highways, Transportation and Waste Management has no objections subject to standard conditions but suggests removal of the proposed pedestrian access onto Ratby Road in the interests of highway safety.

Groby Parish Council do not object to the application but make a number of comments regarding the suitability of the pedestrian access onto Ratby Road, the removal of trees from the site fronting Ratby Road, the design of the properties, affordable housing, local infrastructure and the control of construction traffic, parking and road cleansing should development proceed.

No response has been received at the time of writing this report from:-

Severn Trent Water Ltd  
Groby Village Society.

Neighbours notified, Site and Press Notices posted, 2 letters received objecting to the proposals and raising the following issues:-

- i) increase in traffic in an already congested area and on a busy road
- ii) pedestrian access to Ratby Road would be a safety hazard
- iii) stone barn should be preserved not demolished
- iv) more new dwellings in Groby not required
- v) Listed Building to be retained
- vi) appearance of new houses to be in sympathy with existing houses
- vii) granite walls and wrought iron boundary treatment should be used
- viii) communal areas should be landscaped to replace the loss of existing trees on site.

## **Development Plan Policies:-**

### Government Guidance

Planning Policy Guidance 3 Housing encourages the use of previously developed land within urban areas in preference to the development of Greenfield sites for housing. It promotes more sustainable patterns of development and the more efficient use of previously developed land. New housing and residential environments should be well designed and should make a significant contribution to promoting urban regeneration and improving the quality of life.

### Local Plan Policies

Policy BE1 of the adopted Local Plan seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features, Development should incorporate landscaping to a high standard and ensure adequate highway visibility for road users and adequate provision for on and off street parking for residents and visitors together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

Policy BE5 states that the settings of Listed Buildings will be preserved and enhanced by appropriate control through the design of new development in the vicinity, having regard to the scale, form, siting and design of the proposal in relation to the Listed Building and its setting.

Policy BE7 states that in Conservation Areas, the primary planning policy will be the preservation or enhancement of their special character (including buildings, related spaces, views into and out of the area, topography and vegetation) and appearance. When determining applications for development, consideration will be given to the siting of proposals in relation to existing urban spaces and building lines, the overall scale, design and proportions which should be sympathetic to the characteristic form in the area, the desirability of retaining features of historic or characteristic value including street pattern and boundary walls and the use and application of building materials.

Policy RES5 supports residential development on a site within the boundaries of a settlement as defined on the proposals map subject to satisfactory siting, design and layout of the proposal.

Policy T5 refers to the application of appropriate standards for highway design and parking targets for new developments unless a different level of provision can be justified.

Policies REC2 and REC3 of the adopted Local; Plan and the Council's Supplementary Planning Guidance for Play and Open Space requires a financial contribution towards the provision and maintenance of formal and informal public open space if it cannot be provided within the site.

The Borough Council's Supplementary Planning Guidance on New Residential Development provides further guidance for developers on density, design, layout, space between buildings and landscaping/boundary treatments along with highways and parking.

## **Appraisal:-**

### The Principle

Although the previous use of the site has been for commercial purposes, it is not identified as an employment site in the Local Plan. Therefore the use of the site for residential development is considered acceptable in principle, subject to the design, density, scale and layout being satisfactory.

### Density

Government advice in Planning Policy Guidance 3 welcomes the re-use of previously developed land. The more efficient use of land by increasing housing densities is strongly argued in the guidance, whilst it also acknowledges that imaginative designs and layouts improve the attractiveness of residential areas.

The Local Plan states that high densities will be acceptable in certain circumstances, for example where the development is within or adjoining town centres or where the site is directly accessible to good public transport services. The proposal would result in an overall density of 39 dwellings per hectare, which is within Government guidance (30 - 50 dwellings per hectare) and the site is close to the village centre where there are public transport routes within walking distance providing alternative modes of transport.

### Setting of Listed Building/Conservation Area

The use of the proposal site for commercial activity has ceased and the existing buildings have since fallen into a poor state of repair. The remainder of the site has become very untidy and overgrown and therefore does not enhance the character and appearance of the setting of the Listed Building and the overall surrounding Groby Conservation Area.

The proposed scheme is considered to respect both the scale and setting of the Listed Building, which occupies a prominent part of the site on a higher ground level. The Listed

Building retains a significant curtilage to the north and west and the new dwellings are a respectful distance from it. The central car parking area is at a lower level and therefore does not compromise its setting. The proposal also seeks to preserve and enhance the special character and appearance of Groby Conservation Area by retaining the stone boundary walls that form a majority of the perimeter of the site and to repair these walls where necessary. Some alterations are proposed on Chapel Hill to the south of the Listed Building to provide off-street car parking to both the new dwelling fronting Chapel Hill (Plot 9) and the Listed Building itself.

The stone "barn" building on the corner of Ratby Road and Chapel Hill is considered to be an important feature of the site in a prominent position and worthy of retention. However, in its current form and size there is limited scope for its future use and therefore it is proposed to alter and extend this building using stone and slate materials in order to provide a sensitive conversion to a dwelling. It is also proposed to build new stone retaining walls within the site at various points to further enhance the scheme.

### Layout and Design

The scheme proposes a row of 3 x detached and 4 x terraced dwellings fronting onto Ratby Road but located behind the existing stone boundary wall that is to be retained. A footpath runs behind the wall to provide access to the dwellings and the rear car parking area. Given the sloping nature of the site, the dwellings along the Ratby Road frontage have been stepped at various ground levels to provide a gradual increase in ridge height between the "barn" type dwelling at the north to the existing houses to the south. Although this siting will result in the loss of a number of trees within the site, which provide a contribution to the visual amenity of the area, given the overall enhancement of the site by the proposed development, on balance, the loss of these trees is considered to be acceptable, especially as this establishes a strong street frontage on Ratby Road.

A further detached dwelling of similar design fronts onto Chapel Hill on land adjacent to the Listed Building at No. 20 with separate vehicular accesses provided for both. This new dwelling has been sited to respect the spatial setting of the Listed Building and other neighbouring dwellings.

The new dwellings have been designed to reflect a traditional vernacular village style cottage with stone header and cill features to enhance their appearance. The use of slate roofing materials and timber doors and windows will further enhance the character and appearance of the dwellings within Groby Conservation Area and they are considered to be acceptable in design terms.

### Highway Safety and Parking Provision

Planning Policy Guidance 3 states that Local Planning Authorities should reassess their off-street parking requirements for housing development and allow for lower levels close to town centres and where services are readily accessible by other means.

On-street car parking in the vicinity of the site is already considered to be a problem, however, the proposal does provide for 18No. car parking spaces i.e. 2 spaces per unit and also for 2 additional spaces for the Listed Building adjacent to the site. This meets the vehicle parking guidelines in the Local Plan.

The Highway Authority have stated that they have no objections to the proposal subject to standard conditions and the proposed pedestrian access to Ratby Road being removed from the scheme. Amended plans have been submitted to comply with this request.

### Developer Contributions

A financial contribution towards the provision and maintenance of formal and informal public open space will be required from the developer to meet Policies REC2 and REC3 of the Local Plan and the Council's Supplementary Planning Guidance on Play and Open Space in addition to the objectives of the Green Space Strategy and the Parish Public Open Space Quantity/Accessibility Audit 2005. As no such provision has been made on site a contribution of £16,650 (i.e. £1850 per dwelling) will be required.

### Conclusion

The use of the site for residential development is acceptable in principle and the scheme is considered to be acceptable in layout and design terms and also to enhance the character and appearance of Groby Conservation Area whilst also respecting the setting of the adjacent Listed Building. Therefore, it is considered that the application should be approved.

### **RECOMMENDATION :- Permit subject to the following conditions :-**

**SUMMARY OF DECISION** - The proposal is in conformity with Policies BE1, BE5, BE7, RES5, T5, REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan. Planning permission is granted subject to the following conditions:

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 This permission relates to the application as revised by amended plan 3542/A5, 3542/C2 and 3542/D1 received by the Local Planning Authority on 6th June 2006
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and boundary walls 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.
- 4 Before development commences, full details of the window style, reveal, cill, and header treatment shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details.
- 5 Before development is commenced full details of the method of disposal of surface and foul water drainage, which shall be on separate systems, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.
- 6 Notification of the commencement date of any site investigation work relating to potential contamination should be given in writing to the Local Planning Authority not less than 14 days before such work commences.
- 7 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details.

- 8 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 9 Notification of the commencement of development should be given in writing not less than 14 days before development commences.
- 10 Before first occupation of the dwellings hereby approved, the access drives and turning spaces shall be surfaced with tarmacadam, concrete or similar hard bound materials (not loose stones etc) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times.
- 11 Before first occupation of the dwellings hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above ground level and shall be so maintained in perpetuity, where in the control of the applicant.
- 12 The proposed access shall have an effective width of a minimum of 4.8 metres for a distance of at least 5 metres behind the highway boundary. The access drive once provided shall be so maintained at all times.
- 13 Before development commences full details of all external doors and windows (including materials and finishes) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 14 Before development commences full details of the provision to be made for screen walls and fencing shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 15 Before development commences full details of the provision for landscaping on the communal areas of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be implemented in accordance with the approved details.
- 16 The approved landscaping scheme shall be carried out during the first appropriate planting season following the date when the dwellings are first ready for occupation. The 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 re[placed by trees or shrubs of a similar size and species to those originally planted.
- 17 Before first occupation of any dwellings hereby approved, car parking and turning facilities as shown on the approved plans shall be provided within the site and shall remain available for such use at all times thereafter.
- 18 The development hereby permitted shall not commence before the provision and maintenance of off-site open space or facilities whether by off-site physical provision or financial contributions as required in accordance with policy REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan and the approved Play and Open Space Guide has been secured in such a manner as is approved in writing by the Local Planning Authority.
- 19 Before development commences, a working practice schedule associated with the development hereby approved shall be submitted to and approved in writing by the Local



Planning Authority. This schedule shall include full details of the routes to be taken by construction traffic, the provision of vehicle parking and turning facilities within the site, full details of wheel cleansing and road sweeping measures, supervision procedures and hours of operation. The schedule shall be implemented in accordance with the approved details and be operational on the site at all times during the construction period.

**Reasons :-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To define the permission.
- 3&4. To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure satisfactory provisions are made for the drainage of the site.
- 6-9 To ensure the safe development of the site and to protect the amenities of future occupiers to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 10 To reduce the possibility of deleterious materials (loose stones etc) being deposited in the highway and in the interests of highway safety.
- 11 To ensure that an adequate line of vision is available in the interests of road safety to accord with policy BE1 of the Hinckley and Bosworth Local Plan.
- 12 In the interests of road safety to accord with policy BE1 of the Hinckley & Bosworth Local Plan.
- 13&14 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 15 To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 16 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 17 To ensure that adequate off-street parking and turning facilities are available and to ensure that vehicles may enter and leave the site in a forward direction in the interests of road safety and to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 18 To ensure that the development contributes towards the provision and maintenance of public open space facilities within the vicinity of the site in accordance with policies REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan.
- 19 To minimise the impact of the development on the amenities of the local area and in the interests of highway safety.

**Notes to Applicant:-**

- 1 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.

- 2 Demolition of the existing buildings requires notification to the Building Control Section of the Local Planning Authority in accordance with Sections 80 and 81 of the Building Act 1984.
- 3 The applicant should consider the use of Sustainable Drainage Systems (e.g. soakaways and permeable paving) for the disposal of surface water subject to the suitability of the ground strata.
- 4 In relation to Condition 18, the applicant has made a one-off payment of £16,650 towards the provision and maintenance of public open space.
- 5 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 (01530 262380)
- 6 In relation to condition advice from Health and Environment Services is attached to this decision notice which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.

**Contact Officer :-** R. Wright Ext 5894

**Item:** 08

**Reference:** 06/00357/FUL

**Applicant:** Speymill ODD Ltd

**Location:** White Gables Farm Fenn Lanes Fenny Drayton Nuneaton,  
Warwickshire CV13 6BJ

**Proposal:** ADDITIONAL LOOSE BOXES, ERECTION OF STUD CENTRE,  
RELOCATION OF MANEGE AND REVISED SITE ACCESS

**Introduction:-**

This is a full application for an additional 12 loose boxes, the erection of a stud centre, relocation of manege and revised site access at White Gables Farm, Fenn Lane, Fenny Drayton. As part of the proposal 8 of the existing loose boxes are to be altered into general storage for equipment and feed. The farm operates as an equestrian centre with the farmhouse fronting the highway, and vehicular access and car parking to the west. There is one immediate neighbour to the east. All other boundaries adjoin agricultural/equestrian land and a public footpath passes along the northern boundary.

The manege is proposed to be relocated further north, adjacent to the proposed additional loose boxes. The revised access is proposed further to the west in order to improve visibility to the east and allow for the closure of the existing access.

**History:-**

94/00245/FUL	Loose boxes, formation of manege, car park and alterations to dwelling	Approved	25.05.94
94/00614/FUL	Erection of loose box and re-siting of stables and hay store.	Approved	25.08.94

97/00207/COU	Change of use from tack room to tack shop	Refused	25.04.97
97/00420/COU	Change of use from tack room rest area to tack shop	Refused	25.06.07
00/01163/FUL	Conversion of tack shop to one dwelling	Approved	31.01.01
02/00032/FUL	Conversion and extension to existing building to provide dwelling office and garage.	Refused	27.03.02
			Appeal upheld.
03/01272/FUL I	Alterations to outbuildings to form loose box and stores.	Approved	18.12.03

### Consultations:-

No objection has been received from:-

Director of Environment and Heritage (Archaeology).

No objection subject to standard conditions have been received from:-

Director of Highways, Transportation and Waste Management.  
Head of Health and Environment  
Borough Council's Land Drainage Engineer.

Witherley Parish Council has raised some concern in regards to any potential increase in traffic and that the speed may need to be restricted in light of slow moving vehicles.

No response has been received from:-

Neighbours  
Site notice.

### Development Plan Policies:-

The site is within the open countryside and a local landscape improvement area, as identified in the Hinckley and Bosworth Local Plan.

There is a strong policy commitment to protect and preserve the appearance and amenity of the open countryside. Policy NE5 of the adopted Hinckley and Bosworth Local Plan states that planning permission will only be granted if the development is either: important to the local economy and cannot be provided within or adjacent to an existing settlement; or for the change of use, reuse or extension of existing buildings, particularly those of historic value; or for sport or recreation purposes.

Policy NE10 requires comprehensive landscaping proposals for any development within local landscape improvement areas.

Policy BE22 relates to stables and associated uses. It is stated that planning permission will be granted unless the development intrudes into the landscape, adversely affects nearby residential areas or they generate traffic on a scale likely to affect the rural character of the area or the amenities of nearby residents. Consideration should also be given to

appropriate landscaping. Brick and/or timber should be the principal materials of construction so that the development fits sympathetically into the rural setting.

The Borough Council's Supplementary Planning Guidance, 'Guide to Design of Farm Buildings' seeks to ensure that the design, siting, choice of materials and landscaping, associated with new agricultural buildings, is taken into account when considering the potential impact of the building in the wider landscape.

## **Appraisal:-**

### Design and siting

The overall design of the proposed buildings satisfactorily relates to the existing buildings on the site. The proposed additional loose boxes are an extension to an existing block and is similar to a previously unimplemented proposal. However, there is some concern for the choice of materials proposed. The existing block is a grey block and corrugated steel clad building. The materials proposed for both the extension and stud centre are grey blockwork with concrete profile sheeting for the roof. The application also proposes to re-face the existing building in the same manner, replacing the existing cladding. It is considered a more sympathetic choice of materials such as; timber cladding, sympathetically painted rendering or blockwork, would improve the appearance of the development within its rural setting. The applicant has been advised to consider the use of alternative materials. Any revised details will be reported as a late item. Details relating to the proposed materials can be conditioned for prior approval.

When viewed from Fenn Lanes, the proposed buildings and newly sited manege would be reasonably well screened by the existing house and associated farm buildings. However, there is some concern for the siting of the proposed stud centre with regard to landscaping and the public footpath to the northern boundary. At present the site is relatively well screened by existing trees and landscaping. The stud centre is proposed in close proximity to the northern boundary and there is some concern that this will increase the prominence of the proposal. The applicant has been requested to provide details to the retention of existing landscaping, as well as, consideration for the introduction of additional planting. The applicant has also been advised that re-siting the building further away from the boundary may help facilitate the provision of landscaping. Any further information received will be reported as a late item. Details relating to landscaping can also be conditioned as part of an approval.

### Highways

The existing access is immediately adjacent to the farmhouse and provides very poor visibility to the east. The revised access therefore has been proposed further to the west in order to improve the visibility. The Director of Highways, Transportation and Waste Management has stated that further development of this sort, in this location, would ordinarily be resisted. However, taking into consideration the fact that the existing access provides such poor visibility, the proposed works are reasonable and acceptable in this instance. In order to achieve the necessary visibility, however, the existing roadside planting will need to be reduced in height to a maximum of 0.9 metres.

### Conclusion

The site has been an existing equestrian business for many years and the proposed development relates well to the existing buildings. Provided that further consideration is given to the proposed materials and the provision of landscaping, the scheme is considered to be acceptable.

**RECOMMENDATION :- Permit subject to the following conditions :-**

**SUMMARY OF DECISION** - The proposal is in conformity with Policy/Policies NE5, NE4, NE10 and BE22 of the Hinckley and Bosworth Local Plan. Planning permission is granted subject to conditions.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 Notwithstanding the details of the submitted plan, details of the finished materials of the proposed buildings shall be submitted to and approved in writing by the Local Planning Authority and the details implemented as part of the development hereby approved.
- 3 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 10 metres behind the highway boundary and shall be hung so as to open inwards only.
- 4 Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the public highway and thereafter shall be so maintained.
- 5 Before first use of the development hereby permitted turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times.
- 6 The existing car parking facilities provided shall permanently remain available for such use.
- 7 Before first use of the development hereby permitted, its access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times.
- 8 Before first use of the development hereby permitted, visibility splays of 4.5 metres by 88 metres to the east and 4.5 metres by 123 metres to the west shall be provided at the junction of the access with Fenn Lane in accordance with details shown on the submitted Dwg no:-05/79. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.
- 9 The proposed access shall have an effective width of a minimum of 6 metres for a distance of at least 5 metres behind the highway boundary and have 6 metres kerbed radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.
- 10 The existing vehicular access shall be closed permanently within one week of the new access being brought into use and the existing vehicular crossings reinstated to the satisfaction of the Local Planning Authority in consultation with the Highway Authority.
- 11 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
  - i) planting plans
  - ii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
  - iii) implementation programme.

- 12 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft 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.
- 13 No horse manure or other waste materials shall be burnt on the site at any time.

**Reasons :-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure that the development has a satisfactory external appearance to accord with policy BE22 of the adopted Hinckley & Bosworth Local Plan.
- 3 To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic in the public highway.
- 4 To reduce the possibility if surface water from the site being deposited in the highway causing dangers to road users.
- 5 To ensure that vehicles may enter and leave the site in a forward direction in the interests of road safety to accord with policy BE22 of the Hinckley and Bosworth Local Plan.
- 6 To ensure that adequate off-street parking facilities are available to accord with policy BE22 of the adopted Hinckley & Bosworth Local Plan.
- 7 To reduce the deleterious material being deposited in the highway (loose stones etc.)
- 8 To ensure that an adequate line of vision is available in the interests of road safety to accord with policy BE22 and T5 of the Hinckley and Bosworth Local Plan.
- 9 To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway.
- 10 In the interests of highway safety.
- 11 To enhance the appearance of the development to accord with policy BE22 and NE10 of the adopted Hinckley & Bosworth Local Plan.
- 12 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE22 of the adopted Hinckley & Bosworth Local Plan.
- 13 To safeguard amenities of neighbouring properties to accord with policy BE22 of the adopted Hinckley & Bosworth Local Plan.

**Notes to Applicant:-**

- 1 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.
- 2 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 - (telephone 01530 455 283341).

- 3 The suitability of the ground for soakaways should be ascertained by using the test in B R E Digest No. 365 before development is commenced. The porosity test and soakaway design requires the approval of the Building Control Section. The soakaway must be constructed using concrete ring sections with a liftable cover or other approved materials to the satisfaction of the Local Authority.
- 4 In reference to condition 9 if the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metres strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

**Contact Officer:** E MacDonald Ext 5682

**Item:** 09

**Reference:** 06/00384/OUT

**Applicant:** Heart Of England Co-operative Society Ltd

**Location:** Land Rear of 41-65 The Common Barwell Leicester LE9 8BR

**Proposal:** ERECTION OF 30 RESIDENTIAL UNITS WITH ASSOCIATED PARKING AND ACCESS

**Introduction:-**

This is an outline application for the erection of 30 residential units, which seeks approval for access only at this stage with all other matters reserved. The site is located on the south-eastern edge of the village of Barwell. The site is currently accessed from The Common via a partly made up track between Nos. 49 and 51 The Common and is an open grassed area currently used as a paddock for horses. The boundary to the site is well defined by existing mature hedgerows and trees. An open watercourse runs through the site that slopes from north to south. The total site area measures 1.12 ha of which 0.94 ha is considered to be developable land. There are open fields to the East and South that form part of a designated Green Wedge between the settlements of Barwell, Earl Shilton and Hinckley. To the West, North-West and South-West there are residential properties and to the North lies an established Industrial Estate off Dawsons Lane.

The design statement states that the density of the proposed development has been determined by government advice, development plan policy and the constraints offered by the site and seeks to have regard to the character of the surrounding area and this edge of settlement location adjacent to the Green Wedge. A plan has been submitted showing a layout for the site but this is for illustrative purposes only. The application will be subject to a Section106 Agreement covering a comprehensive range of amenity and community provisions. An indicative layout has been provided as part of the application to demonstrate that the proposed numbers of units is achievable. A Transport Assessment has also been submitted in support of the application.

**History:-**

No relevant planning history.

## **Consultations:-**

No objection has been received subject to standard conditions from:-

Head of Health and Environment  
Severn Trent Water Limited  
Director of Highways, Transportation and Waste Management  
Leicestershire Constabulary Crime Reduction Officer.

Environment Agency does not object to the application in principle but requires conditions relating to the submission of a surface water drainage attenuation scheme and a buffer zone either side of the watercourse running through the site.

Borough Council's Land Drainage Consultant comments that the watercourse running through the site should be kept open and incorporated into a sustainable drainage system for the disposal of surface water.

Leicestershire County Council Library Services, Waste Management and Ecology would all require developer contributions should planning permission be approved. Education contributions are not required as all sectors have spare capacity.

Primary Care Trust would require developer contributions should planning permission be approved.

Press Notice and Site Notice posted, neighbours notified, 9 letters plus a petition with 10 signatories received making objections on the following grounds:-

- i) high volume of traffic and congestion on The Common
- ii) generation of additional traffic
- iii) speeding traffic on The Common
- iv) no traffic calming measures
- v) on-street parking
- vi) loss of greenfield site
- vii) enough housing in Barwell
- viii) inadequate access close to bad bend
- ix) access should be relocated
- x) will increase in noise and air pollution
- xi) will increase accidents
- xii) route used by HGV lorries and buses
- xiii) detrimental to traffic flow
- xiv) inaccurate transport assessment
- xv) inadequate local amenities to serve the development
- xvi) land ownership issues
- xvii) open fronted gardens/child safety
- xviii) proximity of football stadium creates additional congestion.

## **Development Plan Policies:-**

### Government Guidance

Planning Policy Statement 1 'Delivering Sustainable Development' promotes sustainable and inclusive patterns of urban and rural development and the more efficient use of land through higher densities.



Planning Policy Guidance 3 'Housing' encourages housing development which makes more efficient use of land (i.e. densities of between 30 and 50 dwellings per hectare) and encourages development at places with good public transport accessibility.

Planning Policy Statement 7 'Sustainable Development in Rural Areas' encourages new development in, or next to, existing towns and villages near to local service centres where employment, housing and other community facilities are or can be provided close together and also to prevent urban sprawl.

### Structure Plan Policy

Housing Policy 5 of the adopted Leicestershire, Leicester and Rutland Structure Plan 1996-2016 seeks to achieve densities of 40 dwellings per hectare within local centres and other locations served by public transport and accessible to services and facilities with a minimum of 30 dwellings per hectare in other locations.

### Local Plan Policies

The site is within the settlement area of Barwell as defined in the adopted Hinckley and Bosworth Local Plan.

Policy RES1(e) of the adopted local plan states that residential development will be granted on land east of The Common, Barwell, provided that vehicular access is from The Common only and block planting and landscaping will be carried out along the south-eastern boundaries of the site adjacent to the Green Wedge. Policy RES2 seeks 6 units of affordable housing on this site.

Policy BE1 of the adopted Local Plan seeks to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features, Development should incorporate landscaping to a high standard and ensure adequate highway visibility for road users and adequate provision for on and off street parking for residents and visitors together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

Policy NE12 of the adopted Local Plan states that proposed development should take into account the existing landscaping features of the site and should make provision for further landscaping where appropriate.

Policy NE13 of the adopted Local Plan states that planning permission will not be granted for development proposals which would inhibit or damage the drainage functions of the natural watercourse system, unless on or off site protection, alleviation or mitigation works are undertaken. This will include development in areas at risk from flooding, that prevents access to watercourses for maintenance or that gives rise to substantial changes in the characteristics of surface water runoff.

Policy T5 of the Local Plan refers to the application of appropriate standards for highway design and parking targets for new developments unless a different level of provision can be justified.

Policies REC2 and REC3 of the adopted Local Plan and the Council's Supplementary Planning Guidance for Play and Open Space require a financial contribution towards formal and informal public open space if it cannot be provided within the site.

The Borough Council's Supplementary Planning Guidance on New Residential Development provides further guidance for developers on density, design, layout, space between buildings and landscaping/boundary treatments along with highways and parking.

Housing developments should make efficient use of land and be of appropriate density taking into account the general character of the surrounding area and the provision of necessary open spaces.

## **Appraisal:-**

### The Principle

The site is formally allocated for residential development in the adopted Local Plan therefore the proposals are considered acceptable in principle, subject to the design, density, scale and layout being satisfactory.

### Density

The proposal would result in an overall density of 32 dwellings per hectare which is within Government guidance (30 - 50 dwellings per hectare) but lower than the adopted Leicestershire, Leicester and Rutland Structure Plan which encourages densities of 40 dwellings per hectare in locations served by public transport and accessible to services and other facilities. However, the site is on an edge of settlement location adjacent to a designated Green Wedge and has existing constraints that reduce development potential. There is an open watercourse traversing the site, there is established boundary vegetation that has to be retained to comply with Policy RES1(e) and the Highway Authority would object to any higher density than that proposed given the constraints of the proposed vehicular access. The proposed density is therefore considered to be acceptable for these reasons.

### Highway Safety

The existing vehicular/pedestrian access between Nos. 49 and 51 The Common is to be retained in accordance with Policy RES1(e) of the Local Plan and substantially upgraded to adoptable standards.

Following pre-application advice and discussions with the Highway Authority the proposed access will incorporate highway improvement works including the provision of appropriate kerb radii, pedestrian footway and visibility splays of 2.4 metres by 90 metres in both directions from the site. To accommodate the visibility splay requirements it will be necessary to narrow the overall carriageway width of The Common, however both the Transport Assessment that has been submitted in support of the application and the Highway Authority conclude that this is unlikely to have a detrimental impact on the safe free flow of traffic on The Common despite the objections raised by existing residents and the presence of on-street parking in the vicinity. The Transport Assessment concludes that the proposed development would have a minimal impact on the operation of the surrounding highway network.

### Developer Contributions

A total of 6 affordable housing units are to be provided on the site (5 rented units and 1 shared ownership unit) in line with Policy RES2 of the adopted Local Plan. To comply with policies REC2 and REC3 of the adopted Local Plan, the Supplementary Planning Guidance on Play and Open Space and in line with the objectives of both the Green Space Strategy and recommendations of the Parish Public Open Space Quantity/Accessibility Audit 2005, a financial contribution towards the provision and maintenance of formal and informal public open space provision will be required in this case. A contribution amounting to £1,850 per dwelling will be required totalling £55,500.

The County Council would also require financial contributions. A contribution of £1,850 will be required towards the costs of books and other materials in respect of additional users of

the existing library facilities in Barwell. A contribution of £1,234 will be required towards a fund to extend and improve the existing Civic Amenity Site in Barwell that is currently experiencing capacity problems. No contribution is being sought towards Education facilities as all sectors have spare capacity facilities.

Primary Care Trust would require a financial contribution of £6,888 towards the provision of new facilities or improvements to existing facilities.

### Conclusion

The site has been formally allocated for residential development in the adopted Local Plan. The proposed access to the site meets the requirements of Policies RES1(e) and T5 of the adopted Local Plan and the proposals are acceptable to the Highway Authority. The proposed density is within Government guidelines and the requirements of the adopted Local Plan and given the existing constraints to the site and its edge of settlement location is considered acceptable. Neighbours objections refer mostly to highway safety issues such as traffic volume, traffic speed and on street parking and congestion. These concerns are not supported either by the Transport Assessment submitted or by the Highway Authority. Other issues raised such as land ownership are not material planning considerations. Therefore on balance it is considered that this outline application should be approved.

**RECOMMENDATION:- That subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section III of the Local Government Act 1972 towards affordable housing public play and open space, health facilities, library facilities, waste management and highway improvement works, the Head of Culture and Development be granted powers to issue planning permission subject to the conditions below. Failure to complete the Agreement by the 25th July 2006 may result in the application being refused.**

**SUMMARY OF DECISION** - The proposal is in conformity with Policies RES1(e), BE1, NE12, NE13, T5 and REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan. Planning permission is granted subject to the following conditions:

- 1 Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2 Before the development is commenced, full details of the following reserved matters shall be submitted to and approved in writing by the Local Planning Authority.
  - a) The siting, design and external appearance of the proposed buildings
  - b) The external building materials
  - c) The provision to be made for vehicles parking on site
  - d) The provision to be made for vehicles turning within the site
  - e) The method of disposal of surface and foul water drainage which shall be on separate systems
  - f) The provision to be made for landscaping of the site
  - g) The existing trees and hedges on the site which are to be retained
  - h) The provision to be made for screening by walls and fences
  - i) The provision of open spaces within the site
  - j) The floor levels of the proposed buildings in relation to the existing ground level and finished floor levels of the site.

The development shall be implemented in accordance with the approved details.

- 3 Notification of the commencement date of any site investigation work relating to potential contamination should be given in writing to the Local Planning Authority not less than 14 days before such work commences.

- 4 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details.
- 5 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 6 Notification of the commencement of development should be given in writing not less than 14 days before development commences.
- 7 Development shall not begin until a scheme for protecting the proposed dwellings from noise from as been submitted to and approved by the Local Planning Authority; and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.
- 8 No development shall be commenced until a scheme for the provision and implementation of surface water run-off limitation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall incorporate sustainable drainage principles and shall be implemented in accordance with the approved details
- 9 A clear 5 metre buffer strip (measured from the top of the bank of the watercourse) shall be provided along both banks of any open watercourse on the site. The buffer shall remain free of all buildings and landscaping with the exception of a bridge/culvert for access purposes.
- 10 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through trapped gullies with an overall capacity compatible with the site being drained
- 11 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft 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 None of the trees or hedges indicated to be retained shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as maybe specified in writing by the Local Planning Authority.
- 13 A landscape management plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas, other than small privately owned, domestic gardens, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.

- 14 Before first use of the development hereby permitted, drainage shall be provided within the site such that surface water does not drain into the public highway and thereafter shall be so maintained.
- 15 No part of the development hereby approved shall be occupied until visibility splays of 2.4 metres by 90 metres are provided at the junction of the access with The Common, Barwell. These shall be in accordance with the standards contained in the current County Council design guide and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.9 metres within the visibility splays.
- 16 Before first occupation of any dwelling, car parking and turning facilities shall be provided within its curtilage and shall remain available for such use at all times thereafter
- 17 No walls, planting or fences shall be erected or allowed to grow on the Highway boundary exceeding 0.9 metres in height above the level of the adjacent carriageway.
- 18 Any garage doors shall be set back from the highway boundary a minimum distance of 5 metres for sliding or roller/shutter doors, 5.6 metres for up-and-over doors or 6 metres for doors opening outwards and thereafter shall be so maintained.
- 19 The gradients of the access drives shall not exceed 1:12 for the first 5 metres behind the highway boundary.
- 20 Before first occupation of any dwelling, its access drive and any turning space shall be surfaced with tarmacadam, concrete or other similar hard bound material for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times thereafter
- 21 Before first occupation of any dwelling, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the highway boundary on both sides of its vehicular access with nothing within those splays higher than 0.6 metres above ground level, and shall be so maintained at all times thereafter.
- 22 Any shared private drives serving no more than a total of 5 dwellings shall be a minimum of 4.25 metres wide for at least the first 5 metres behind the highway boundary and have 2 metres control radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.
- 23 Any shared private drive off the shared surface road serving more than 5 but no more than 25 dwellings shall be a minimum of 4.8 metres wide for at least the first 5 metres behind the highway boundary and have 4 metres kerbed radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.
- 24 Before development commences, a working practice schedule associated with the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. This schedule shall include full details of the routes to be taken by construction traffic, the provision of vehicle parking and turning facilities within the site, full details of wheel cleansing and road sweeping measures, supervision procedures and hours of operation. The schedule shall be implemented in accordance with the approved details and be operational on the site at all times during the construction period.

**Reasons :-**

- 1 To comply with the requirements of Section 92 of the Town & Country Planning Act 1990.
- 2 This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.

- 3-5 To ensure the safe development of the site and to protect the amenities of future occupiers to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 6 To ensure the safe development of the site and to protect the amenities of future occupiers to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 7 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 8 To prevent the risk of increased flooding
- 9 To maintain access to the watercourse for maintenance and improvements, to provide for overland flood flows and maintain biodiversity value of the watercourse.
- 10 To prevent pollution of the water environment
- 11 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy of the adopted Hinckley & Bosworth Local Plan.
- 12&13 In the interests of visual amenity.
- 14 To prevent the possibility of surface water from the site being deposited in the highway causing danger to road users
- 15 To afford adequate visibility at the access junction to cater for the expected volume of traffic joining the existing highway network and in the interests of highway safety to Accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan
- 16 To ensure that adequate off-street parking facilities are available to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 17 To ensure that an adequate line of vision is available in the interests of road safety to accord with policy BE1 of the Hinckley and Bosworth Local Plan.
- 18 To enable a vehicle to stand clear of the highway to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 19 In the interests of road safety.
- 20 To reduce the possibility of deleterious materials (loose stones etc) being deposited in the highway and in the interests of highway safety.
- 21 To ensure that an adequate line of vision is available in the interests of road safety to accord with policy BE1 of the Hinckley and Bosworth Local Plan.
- 22&23 To enable vehicles entering and leaving the site to pass each other clear of the highway in the interests of road safety to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 24 To minimise the impact of the development on the amenities of the local area and in the interests of highway safety

## Notes to Applicant:-

- 1 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.
- 2 A Reserved Matters application should include dwellings that are predominantly two storeys in height, although some rooms in the roof-space may be acceptable
- 3 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.
- 4 The applicant is advised that owls and bats are protected species under the Wildlife and Countryside Act 1981 and should work proceed and any of the above species be discovered, the applicant should contact English Nature immediately.
- 5 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 (01530 262380)
- 6 The applicant's attention is drawn to the contents of the attached report provided by the Environment Agency in respect of the drainage of the site
- 7 The applicant's attention is drawn to the attached report provided by Leicestershire Constabulary in respect of crime reduction
- 8 The applicant's attention is drawn to the requirement to enter into a section 278 agreement with the Highway Authority, or other suitable legal agreement of the Highways Act 1980, for the Highway improvement works to be carried out before development commences
- 9 In relation to condition 4 advice from Health and Environment Services is attached to this decision notice which includes the Borough Council's policy on the investigation of land contamination Any scheme submitted shall be in accordance with this policy.
- 10 In relation to Condition 8, the scheme shall demonstrate that it is feasible to balance surface water run-off to the greenfield run-off rate for all events up to the 1 in 100 year storm (including climate change).
- 11 During the period of construction and following completion of development, facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank / vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.
- 12 This permission does not grant or imply consent for the layout shown on the submitted plan accompanying the application which is for illustrative purposes only.

**Contact Officer:-** R. Wright Ext 5894

**Item:** 10  
**Reference:** 06/00422/CON  
**Applicant:** Simon Thompson  
**Location:** Land Off Chapel Hill Groby Leicester LE6 0FE  
**Proposal:** DEMOLITION OF REDUNDANT COMMERCIAL BUILDINGS

**Introduction:-**

This is an application for Conservation Area Consent for the demolition of redundant commercial buildings that are in a poor state of repair on land adjacent to 20 Chapel Hill, Groby. The demolition is to facilitate the redevelopment of the site for 9 residential units including extension and alteration to the retained stone barn at the junction of Ratby Road and Chapel Hill. The Listed Building at 20 Chapel Hill is to remain as existing. An application for the redevelopment of the site precedes this item on the agenda (ref. No. 06/00348/FUL).

The site is close to the centre of the village and adjacent to a Listed Building at 20 Chapel Hill. There are residential properties to the east, west and south and commercial uses to the north. Access is from the north off Chapel Hill, which runs to the north-east and south-east of the site, with Ratby Road running to the north-west. The steeply sloping site measures 0.23 hectares in area and is defined by existing stone boundary walls for a majority of its perimeter.

**History:-**

96/00925/TEMP	Retention of Portable Office Accommodation	Refused	05/02/97
96/00263/FUL	Alterations to Elevation	Approved	30/05/96
96/00256/TEMP	Siting of Temporary Portable Building to provide Office Accommodation	Approved	29/05/96
88/0681/FUL	Hardstanding for Vehicle Wash Area and Security Lights	Approved	08/06/89

**Consultations:-**

No objection has been received from:-

Head of Health and Environment  
 Borough Council's Land Drainage Engineer  
 Director of Highways, Transportation and Waste Management.

Groby Parish Council do not object to the application but make a number of comments regarding the proposed design and external appearance of the converted stone barn unit and its boundary wall.

No response has been received at the time of writing this report from Groby Village Society.



Neighbours notified, Site Notice and Press Notice posted, 3 letters received raising the following issues:-

- i) increase in traffic in an already congested area and on a busy road
- ii) pedestrian access to Ratby Road would be a safety hazard
- iii) stone barn should be preserved not demolished
- iv) more new dwellings in Groby not required
- v) Listed Building to be retained
- vi) appearance of new houses to be in sympathy with existing houses
- vii) granite walls and wrought iron boundary treatment should be used
- viii) communal areas should be landscaped to replace the loss of existing trees on the site.

## **Development Plan Policies:-**

### Structure Plan Policies

Environment Policy 1 'Historic Environment' of the adopted Leicestershire, Leicester and Rutland Structure Plan states that development in Conservation Areas will be required to preserve or enhance the character and /or appearance of the area. Proposals for development on, in, or adjacent to historic sites and buildings will be considered against the need to ensure their preservation and setting.

### Local Plan Policies

Policy BE1 of the adopted Local Plan seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features, Development should avoid the loss of open spaces and features that contribute to the quality of the local environment, incorporate landscaping to a high standard and ensure adequate highway visibility for road users and adequate provision for on and off street parking for residents and visitors together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

Policy BE5 states that the settings of Listed Buildings will be preserved and enhanced by appropriate control through the design of new development in the vicinity, having regard to the scale, form, siting and design of the proposal in relation to the Listed Building and its setting.

Policy BE7 states that in Conservation Areas, the primary planning policy will be the preservation or enhancement of their special character (including buildings, related spaces, views into and out of the area, topography and vegetation) and appearance. When determining applications for development, consideration will be given to the desirability of retaining features of historic or characteristic value including street pattern and boundary walls and the use and application of building materials.

Policy BE8 states that applications for the demolition of buildings in Conservation Areas will be refused except where it can be demonstrated that the loss of the buildings will not be detrimental to the character and appearance of the Conservation Area and that there are proposals for their replacement which would preserve or enhance the character or appearance of the Conservation Area.

## **Appraisal:-**

The site is within the settlement boundary of Groby as defined in the adopted Hinckley and Bosworth Local Plan, close to the village core and within the Groby Conservation Area that was designated in 1976. The use of the proposal site for commercial activity has ceased and the existing buildings have since fallen into a poor state of repair. The remainder of the site has become very untidy and overgrown and therefore does not enhance the setting of the Listed Building and the character and appearance of the wider Groby Conservation Area.

It is considered that the demolition of the existing commercial buildings, which, with the exception of the stone barn which is to be retained, have no particular architectural or historical merit, will not be detrimental to the character or appearance of the Groby Conservation Area. The proposed redevelopment scheme is considered to enhance the setting of the Listed Building and the wider Groby Conservation Area through a sensitive redevelopment of the site whilst also preserving the features that contribute to the special character of the area.

### Conclusion

The demolition of the commercial buildings and the retention and improvements to the stone barn and boundary walls is considered to enhance and preserve both the setting of the Listed Building and the special character and appearance of the wider Groby Conservation Area. Therefore, it is considered that the application should be approved.

## **RECOMMENDATION :- Permit subject to the following conditions :-**

**SUMMARY OF DECISION** - The proposal is in conformity with Policies BE1, BE5, BE7 and BE8 of the adopted Hinckley and Bosworth Local Plan. Planning permission is granted subject to the following conditions:-

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 This permission relates to the application as revised by amended plan 3542/A5 and 3542/D1 received by the Local Planning Authority on 6 June 2006

### **Reasons :-**

- 1 To comply with the requirements of Section 74 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 2 To define the permission.

### **Notes to Applicant:-**

- 1 Demolition of the existing buildings requires notification to the Building Control Section of the Local Planning Authority in accordance with Sections 80 and 81 of the Building Act 1984.

**Contact Officer:-** R. Wright Ext 5894

**Item:** 11  
**Reference:** 06/00427/OUT  
**Applicant:** Mr And Mrs Harman  
**Location:** 21 Middlefield Lane Hinckley Leicestershire LE10 0QZ  
**Proposal:** ERECTION OF BUNGALOW

**Introduction:-**

This outline application is for the erection of a single storey dwelling on land off Middlefield Close, Hinckley. Currently it forms part of the rear garden of 21 Middlefield Lane, a detached bungalow occupying a corner plot with road frontage.

The surrounding area is comprised of detached residential properties fronting on to Middlefield Road, the majority of which are two storey dwellings. To the south of the plot is dormer bungalow created by infill development and is accessed from Middlefield Close. Immediately to the north is another bungalow, a former printing works which was converted to residential use in 1974. To the west of the site, running north along Middlefield Close, are pairs of semi-detached bungalows.

A design statement has been submitted in support of the application stating the layout of the proposal would be designed to respect the character and amenity of the surrounding area with the creation of a two bedroomed single storey dwelling. Siting and means of access are to be approved at this stage.

**History: -**

90/0999	Erection of bungalow (Outline)	Refused	12/09/90
91/0265/4	Erection of bungalow (Outline)	Refused & dismissed on appeal	23/04/91
91/0848/4	Erection of bungalow (Outline)	Refused & dismissed on appeal	22/10/91

**Consultations:-**

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

Director of Highways, Transportation and Waste Management (Highways)  
The Borough Council's Land Drainage Engineer.

Neighbours notified and 1 letter of objection has been received raising the following concerns:-

- a) Incorrect details given on the planning application relating to the positioning of principle windows at 38 Middlefield Close
- b) Incorrect measurements taken particularly relating to existing ground levels
- c) The right to light.

## **Development Plan Policies:-**

The application site lies within the settlement boundary of Hinckley as identified in the adopted Hinckley and Bosworth Local Plan. Policy RES5 relates to residential proposals on unallocated sites. It is stated that on those sites, which are not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if: the site lies within the settlement boundary and the siting, design and layout of the proposal do not conflict with the relevant plan policies.

Policy BE1 of the Local Plan seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features, Development should incorporate landscaping to a high standard and ensure adequate highway visibility for road users and adequate provision for parking and should not adversely affect the occupiers of neighbouring properties.

Policy T5 refers to Highway standards and parking requirements.

The Local Planning Authority's Supplementary Planning Guidance, relating to new residential development, seeks to achieve high standards of design to ensure that the quality of the environment is retained or wherever possible enhanced. The main aims are to ensure that new developments are well integrated into their surroundings, offering a good standard of amenity to future residents and protect the amenity of existing occupiers.

## **Appraisal:-**

As the site lies within the settlement boundary the principle of developing the plot is considered acceptable. Notwithstanding this, it is necessary to assess the proposal against the relevant plan policies, particularly in respect of siting and access and the potential impact on the character of the area and the amenities of neighbours.

### Layout

The plot is approximately 280 sq m with the proposed dwelling occupying a footprint of 160 sq m. including the area for parking and manoeuvring. This would leave 120 sq m of private amenity space for the proposed dwelling and 145 sq m for 21 Middlefield Lane. Both figures are acceptable in terms of the Supplementary Planning Guidance on New Residential Development.

With regards to privacy and outlook, the Supplementary Planning Guidance requires a distance of 25 metres between facing windows and 12 metres between facing windows and blank gable walls. However, in built up locations there is some flexibility with minimum distances and acceptable distances can be achieved with single storey dwellings in this instance via conditioning of windows, boundary treatment and landscaping. The infill plot of 1A Middlefield Close directly to the south of the site demonstrates this flexibility in relation to single storey dwellings.

Currently an established 3m conifer hedge provides screening on the northern boundary between the site and the adjacent property of 38 Middlefield Close. There is a principle window in the southern elevation of 38 Middlefield Close but the siting of the proposed bungalow is such that this will remain unaffected including accounting for the difference in existing ground levels.

### Access and Parking

The parking standards require 2 spaces for dwellings with three bedrooms or less. The number of bedrooms at this stage is indicative but it is considered that the proposal can achieve the required level of parking and can be conditioned to this effect.

### Developer Contributions

Developer contributions will be required for play and open space and in this instance the sum required will be £1850.

### Conclusion

The proposal will achieve adequate off-street parking and private amenity space within the curtilage of the dwelling. The impact of the proposals on the amenity of the occupiers of the adjacent dwellings is not considered to be sufficient to warrant refusal of the application. It is considered acceptable in terms of Policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan and to the Council's Supplementary Planning Guidance on New Residential Development.

To reduce the impact further on 38 Middlefield Close amended plans are pending and will be reported as a late item.

### **RECOMMENDATION :- Permit subject to the following conditions :-**

**SUMMARY OF DECISION** - The proposal is in conformity with Policies BE1, RES5 , IMP1 , REC2 , REC3 and T5 of the Hinckley and Bosworth Local Plan. Planning permission is granted subject to conditions.

- 1 Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2 Before the development is commenced, full details of the following reserved matters shall be submitted to and approved in writing by the Local Planning Authority:
  - i) the design and external appearance of the proposed building  
the external building materials
  - ii) the provision to be made for vehicle parking on the site
  - iii) the method of disposal of surface and foul water drainage, which shall be on separate systems
  - iv) the provision to be made for landscaping of the site
  - v) the existing trees and hedges on the site which are to be retained
  - vi) the provision to be made for screening by walls and fences
  - vii) the floor levels of the proposed dwelling in relation to the existing ground level and the finished levels of the site.

The development shall be implemented in accordance with the approved details.

- 3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A - E inclusive shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.

- 4 The development hereby permitted shall not commence before the provision and maintenance of off-site open space or facilities whether by off-site physical provision or financial contributions as required in accordance with policy REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan and the approved Play and Open Space Guide has been secured in such a manner as is approved in writing by the Local Planning Authority.
- 5 Before the first occupation of the dwelling, car-parking provision shall be made within the curtilage of the dwelling on the basis of 2 spaces for a dwelling with up to three bedrooms and 3 spaces for a dwelling with four or more bedrooms. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking, unless otherwise agreed in writing by the Local Planning Authority.
- 6 The proposed dwelling shall be single storey only.
- 7 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft 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.

**Reasons :-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.
- 3 To safeguard amenities of neighbouring properties to accord with policy RES7 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure the provision of Play and Open Space to accord with policies of REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure that adequate off-street parking facilities are available to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 6 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 7 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

**Notes to Applicant:-**

- 1 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.
- 2 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.

**Contact Officer:-** S Cheshire Ext 5762

**Item:** 12

**Reference:** 06/00445/FUL

**Applicant:** The DRE Group Limited

**Location:** Fabrex Ltd / Adkins 18 Lancaster Road Hinckley Leicestershire LE10 0AW

**Proposal:** CHANGE OF USE OF FIRST AND SECOND FLOORS FROM INDUSTRIAL/OFFICE USE TO HOTEL INCLUDING EXTENSIONS AND ALTERATIONS TO FORM FIRST FLOOR BREAKFAST/DINER

**Introduction:-**

This is a full application for the change of use of the upper floors of High Cross, 18 Lancaster Road, Hinckley to a 70-bed hotel, including a new extension to provide breakfast/diner accommodation on the first floor.

The application building and other adjoining buildings form a triangular parcel of land bounded by Regent Street, Lancaster Road and George Street. A service road/loading bay area runs through the site between Lancaster Road and George Street. However, the access to/from George Street from this service road would be blocked off to provide the public entrance lobby and reception area to the hotel.

The upper floorspace of High Cross, subject of this application, comprises of 2,620 square metres and is currently in industrial and office use, whilst the ground floor is occupied by a mix of retail and Class A3 uses (The 'Litten Tree' and 'Barracuda' public houses).

The proposal also involves a first floor extension over an internal area of the site to provide additional floorspace as a dining area with the ground floor then being used for hotel services (laundry etc). The extension would not be visible from outside the site. New replacement windows are proposed, for which details have also been submitted.

A transport statement and separate noise assessment have been submitted with the application.

**History:-**

None relevant.

**Consultations:-**

No objection has been received from:-

Head of Health and Environment Services.

No objection has been received subject to standard conditions from Environment Agency.

Leicestershire Constabulary Crime Reduction Officer has no objection in principle but offers advice in relation to further measures which could aid security.

Hinckley District Chamber of Trade have no objections in principle to a hotel in the town centre but expresses concern about the lack of car-parking and inconsistencies in the information provided with the application as to the number of existing jobs and those to be created.

No response has been received at the time of writing this report from:-

Borough Council's Land Drainage Consultant  
Severn Trent Water Ltd  
Director of Highways, Transportation and Waste Management (Highways)  
Strategy and Regeneration Manager.

Neighbours notified and press and site notices displayed, one letter has been received objecting to the proposal on the grounds that the lack of parking would aggravate existing parking and servicing in the area particularly for neighbouring businesses.

### **Development Plan Policies:-**

The site is designated as an 'Other Shopping Area', with a 'Secondary Shopping Frontage' on Regent Street, in the adopted Hinckley and Bosworth Local Plan.

Policies RETAIL 3, 4, 13 and 14 of the adopted Local Plan essentially relate to proposals affecting ground floor shop uses and are, therefore, not particularly relevant here.

Policy RETAIL 12 of the adopted Local Plan states that planning permission will be granted for the use of vacant or under-used upper floors of shops and other commercial premises within the town centre to residential use provided it is acceptable in terms of residential amenity and highway safety. However, a hotel may not be considered a strictly residential use with regard to the spirit and intentions of this Policy.

Policy REC22 of the adopted Local Plan states that planning permission for the development of hotels, motels, guest houses and conference centres with overnight accommodation will be granted unless it is contrary to other local plan policies, particularly in relation to environmental and highway considerations.

The main part of the building, fronting Regent Street, is also within the Hinckley Town Centre Conservation Area. Policy BE7 of the adopted Local Plan advises that development in Conservation Areas should preserve or enhance their special character.

Policy T5 of the adopted Local Plan states that appropriate parking standards as set out in the Local Plan will apply unless a different level of provision can be justified.

### **Appraisal:-**

The premises are located over existing A3 uses and sited adjacent to existing retail units in both the Edwards Centre, Regent Street and along Rugby Road to the south. A variety of commercial properties, predominantly in A1 use (shops), but also including hotel accommodation, is also evident opposite the application site. Whilst there are a number of non-retail uses along Regent Street these nevertheless add vitality to this part of the town centre, which essentially remains retail in character. This proposal would not remove any retail frontage and would, therefore, have no adverse impact on this mix. Indeed, a hotel use would potentially enhance the town centre by bringing additional vitality, especially at night.

The proposed extension would not be visible from outside the site and would, therefore, preserve the character and appearance of the Conservation Area.

Replacement of the existing metal windows by plastic windows, or other similar alternatives, could have a significant impact on the appearance of this building. The unique fenestration of this prominent building within the Conservation Area is a major contributor to its overall character and any replacement would need to be carefully considered. Only



sympathetic alternatives will be acceptable. Although details have been submitted, officers are currently awaiting actual samples for further clarification. If permitted, such details could be secured by a condition.

Notwithstanding the above, it is considered that the principle issue and main concern with this application is the lack of parking. Whilst it is acknowledged that this is a town centre location where there is transport choice, the nature of hotel accommodation is different to that of any residential use in the town centre and different to the existing use where employees can arrive at work by a variety of means of transport including cycling and walking. In terms of 'living over the shop' in the town centre, car parking standards can be relaxed if they assist in bringing more vacant or under-used upper floors into residential use where it can be demonstrated that sufficient car parking is likely to be available outside normal working hours in the vicinity of the property. Car parking requirements for a hotel use are likely to be throughout the day and the principal choice of travel for customers is likely to be the car. It is considered that the provision of a 70 bed hotel is a particularly intensive use of this building, the use of which would exert considerable pressures on the existing car parks and streets in the locality, causing unacceptable congestion and additional vehicular movements within the town centre.

The matter of car parking provision was raised with the applicants at an early stage and officers' concerns were expressed. The possibility of parking being provided on adjoining land and buildings owned by the applicant, but outside the application site and currently separately occupied, was discussed. However, this does not form part of the current proposals. Officers do not consider that the submitted transport assessment has sufficiently demonstrated that the proposal is acceptable on highway grounds. The Highway Authority's formal comments are still awaited at the time of writing this report. However, discussions have taken place with the Highway Authority, and it is likely that financial contributions towards new, or the improvement of existing car parks in lieu of any shortfall in parking resulting from the proposal will be required.

**RECOMMENDATION:- That subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 to provide financial contributions towards the improvement of existing, or the provision of new, car parking facilities in the town centre, the Head of Culture and Development be granted powers to issue planning permission subject to the following conditions below. Failure to complete the agreement by the 20th July 2006 will result in the application being refused:-**

**SUMMARY OF DECISION** - The proposal is in conformity with Policies BE1, BE7, REC22 and T5 of the adopted Hinckley and Bosworth Local Plan. Planning permission is granted subject to conditions:-

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials of the existing building unless previously agreed in writing with the Local Planning Authority.
- 3 Before development commences, and notwithstanding the details submitted, full details of the window style, material, reveal, sections and colour shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details.

- 4 Development shall not begin until a scheme for protecting the proposed units of accommodation from noise from the existing ground floor Class A3 uses has been submitted to and approved by the Local Planning Authority; and all works which form part of the scheme shall be completed before the facility is first brought into use.

**Reasons :-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2&3. To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 In the interests of the amenities of future occupiers of the accommodation, to comply with Policy BE1 and REC22 of the adopted Hinckley and Bosworth Local Plan.

**Notes to Applicant:-**

- 1 Attention is drawn to the comments of Environment Agency and Leicestershire Constabulary in the attached letters.
- 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.

**Contact Officer:-** N Wright Ext 5605

**Item:** 13

**Reference:** 06/00473/REM

**Applicant:** Jelson Limited

**Location:** Land Off Outlands Drive Hinckley Leicestershire

**Proposal:** ERECTION OF FIFTY SIX DWELLINGS

**Introduction:-**

This is a reserved matters application for the first phase of the residential development approved at Planning Committee for 365 dwellings off Outlands Drive. This application seeks approval for the residential development of half of the area defined as Area B in the design statement submitted with the original outline application. The site measures approximately 1.41 ha and is located adjacent residential properties to the north and south, a school to the east and Wykin Park to the west. It comprises an overgrown and untidy site, which gently rises to the north. Hedging defines the boundary along the south and there is a 2 metre high palisade fence adjacent the school. A public footpath cuts through the site towards Wykin Park. There is one protected Ash tree on the site, which is located on the southern boundary.

The application was accompanied by a detailed design statement that examines the original basic design principles, it considers streetscape, character, vistas, landmarks, public spaces, movement, parking and green space.

**History:-**

01/00338/OUT	Residential Development	Dismissed at appeal	09/05/04
03/00346/OUT	Residential Development	Refused	25/06/03
05/00011/OUT	Erection of 375 dwellings and estate roads, footpaths and cycle routes and landscaping	Withdrawn	04/05/06
05/00335/OUT	Erection of 375 dwellings and estate roads, footpaths and cycle routes and landscaping	Permitted	29/03/06
05/00336/FUL	Erection of fifty six dwellings	Withdrawn	25/04/06

**Consultations:-**

No objection has been received from the Environment Agency.

No objections subject to conditions have been received from:-

The Director of Community Services (Archaeology)  
Severn Trent Water.

The Land Drainage Engineer is concerned that SUDS are not proposed and would recommend soakaways; attenuation basins and permeable paving etc are incorporated into the scheme subject to the satisfactory ground characteristics.

The Director of Highways, Transportation and Waste Management has not yet provided full comments however on initial inspection of the plans concerns are raised that the position of dwellings on plots 7, 15, 16, 22 and 28 will impede visibility splays within the site.

Leicestershire Constabulary Crime Reduction Officer raises no objection to the principle of development but made recommendations in line with Secure By Design. The main recommendations comprise providing secure perimeter fencing and increasing natural surveillance.

The Borough Council's Arboricultural Consultant considers the Ash tree is not a very well developed specimen having branched at a very low level; this makes the crown very invasive when it comes to site development. He further comments that the tree is of no real merit and perhaps the developer could plant some, better or more appropriate specimens.

Hinckley and Bosworth Primary Care Trust have requested a financial contribution of £12,857 towards improving existing health care facilities.

Neighbours notified, 6 letters of objection received and one petition containing 345 signatures, raising the following:-

- a) impact on residential amenity by virtue of car head lights shining in windows opposite access to site;
- b) type of accommodation provided, i.e. 3 storey flats not in keeping with surrounding area;

- c) loss of mature hedgerow and tree;
- d) flats overlook Battling Brook school;
- e) traffic calming is required;
- f) loss of privacy;
- g) overbearing development;
- h) impact on wildlife;
- i) impact on road network and school;
- j) no access from Outlands Drive to Wykin Park is proposed;
- k) dwellings should be sold to private buyers;
- l) lack of parking across the site.

## **Development Plan Policies:-**

### Structure Plan

The adopted Leicestershire, Leicester and Rutland Structure Plan Strategy Policy 1 ensures the provision of appropriate housing to meet the needs of the plan area and ensures that development is of a high quality design and where appropriate, contributes towards encouraging a sense of community.

### Local Plan

The site is allocated in the adopted Hinckley and Bosworth Local Plan for residential purposes. Policy IMP1 of the Hinckley & Bosworth Local Plan ensures that appropriate contributions towards the provision of infrastructure and facilities are made which are commensurate with the scale and nature of the development proposed. Policy RES1 states that planning permission will be granted for this site for residential development. Policy RES1 (l) and (m) give specific criteria to be met which requires a comprehensive layout for the whole of the site a range of house types and densities, provision for pedestrian and cycle links and respecting existing natural features particularly safeguarding protected trees.

Policy BE1 of the adopted Local Plan seeks to ensure a high standard of layout and design in order to secure attractive development and enhance the existing environment.

Policy T5 requires development to meet the highway standards set out in the current edition of Leicestershire County Council's 'Highway Requirements for Development'.

## **Appraisal:-**

The principal of residential development on this site has been accepted by the grant of outline planning permission which was subject to conditions and a Section 106 agreement. At outline stage the impact on infrastructure was considered and contributions towards play and open space; education; community facilities, health facilities, public realm; civic amenity and highway improvements were secured.

### Density, Layout and Design

The key urban design precedents were laid down at the outline stage and these have been followed through to the detailed design stage. This first phase seeks to provide 56 dwellings on a site area of 1.41 ha resulting in a density of approximately 40 dph. This is considered an acceptable density in this location and is in conformity with the principles laid down at outline stage. The scheme submitted proposes a development that has carefully considered the quality of the environment and the public realm. Views and vistas have been considered along with a permeable and legible layout. Where possible existing landscaping has been retained and additional landscaping incorporated to articulate the

streetscape. Where existing landscaping is proposed to be lost along the site frontage a green square has been created with additional landscaping to compensate for the loss. Towards the rear of the site there are two formal squares linked by a sinuous lane. Both squares provide an area with seating and are tree lined to create a sense of place and add character to the development. These squares form nodes within the development with dwellings fronting them to provide natural surveillance. The layout also incorporates a hierarchy of routes, created by variations in highway width and surfacing. Some areas incorporate shared surfaces and are separated by a channel that will assist with subconsciously controlling vehicle speeds. Parking has been provided across the site by either private parking adjacent dwellings or shared parking courts, the parking provision is just over 1.5 per dwelling, which is required across the whole development as part of the outline approval.

The proposal provides a mix of dwelling styles and designs, these include flats in 2 and 3 storey buildings, 2 and 3 storey dwellings, detached, semi-detached and terrace providing a choice of accommodation to meet current government guidance. Architecturally, the designs are not necessarily characteristic of surrounding development. However, it is considered that the design of the dwellings does not harm the character of the surrounding development and will act as the standard of development expected across the other phases of development. Furthermore, a mix of 2 and 3 storey dwellings were suggested in the design statement submitted with the outline application. It is considered the scheme will carry its own identity which when considering such a large extension of the urban settlement is considered to be acceptable.

#### Highway Issues

Concern has been expressed by the Highway Authority regarding the proposed layout and its impact on visibility splays within the site. Discussions are being held between the applicants agent and the highway authority in an attempt to resolve these matters, and the outcome of these discussions will be reported as a late item.

A local resident has requested that traffic-calming measures are provided along Outlands Drive. As this is a reserved matters application this cannot be considered at this time. However, the Section 106 agreement did secure contributions for a package of highway improvements.

Concerns have been received regarding the lack of parking across the site. The parking provision proposed meets the requirement of the condition imposed at outline stage, i.e. a maximum of 1.5 spaces per dwelling across the whole site; which is in line with Government Guidance.

#### Impact on vegetation

The proposal as already stated seeks to retain as much of the existing landscaping as possible and where it is necessary to remove trees and hedgerow it is addressed with additional planting. Of particular concern to local residents is the hedgerow along Outlands Drive and the protected Ash Tree also located on the boundary with Outlands Drive. The Ash Tree was protected by an Order in 1976 and whilst a very attractive tree it is considered on inspection that it has not been maintained particularly well and may well not be worthy of keeping. The Council's Arboricultural Consultant has assessed the quality of tree and states that whilst Ash trees will live for about 150 years in the right conditions, this particular tree is of no real merit. He further suggests the developer could be persuaded to plant some trees of real merit on the site to compensate for the loss. The hedgerow to the south of the site is protected by a condition of the outline permission and requires consent from the Local Planning Authority for its removal. This application seeks to remove a section of the hedgerow to enable frontage development onto Outlands Drive at either end of the development. Should the hedge be retained the Local Authority is likely to come

under considerable pressure for its removal once development has taken place. It is unreasonable to require the developer to set all the development along Outlands Drive back from the road frontage and would not be in the interests of good design. It is considered that a compromise has been reached with approximately half the hedge along the site frontage being retained, with proposals to provide additional planting in the south-east corner and within the green square. Concerns were also raised that the loss of vegetation will impact adversely on wildlife. Whilst there are no protected species present on the site it is considered that the condition requiring replacement planting will mitigate any adverse effects on wildlife.

#### Impact on neighbours

Concerns have been raised by residents of neighbouring properties regarding overlooking and overbearing impact. Of particular concern is the location of the 3 storey flats in the south-east corner of the site, these however are 29 metres away from the nearest property with Outlands Drive between them. This is well within the standards adopted by the Council in their supplementary planning guidance. Concerns that the 3 storey dwelling and the number of dwellings will be overbearing are unsubstantiated. There is no instance that the new development breaches any of the standards in the adopted supplementary planning guidance and the number of dwellings is in line with that approved in the design statement at outline stage. Distances between dwellings to the rear of the site alongside the Wykin estate are less, but again meet the Council's standards of distances between dwellings and blank gables. It is considered appropriate to ensure overlooking is not a problem in the future by removing the right to insert windows in the gable ends of plots 37 and 38.

Further concerns relate to car headlights shining into windows of existing properties. The outline application approved the Design Statement and Masterplan which indicated the position of vehicular routes. As such the location of the main access road was agreed in principle at outline stage and it would be difficult to justify altering this now.

#### Other Issues

Access to Wykin Park has not been restricted by the development. It can be seen from the original design concept that access to the park will in the long term be considerably improved. In the short term however, the development proposed does not impede access.

The overlooking of Battling Brook School has been raised as an issue. The Council has no policy guidance that restricts residential development overlooking a school or any other non-residential use.

Both Severn Trent Water and the Director of Community Services raised no objections subject to conditions, which were imposed on the outline approval. The Land Drainage Engineer has also requested that Sustainable Urban Drainage systems are incorporated into the scheme, drainage details are again subject to a condition on the outline permission. However it is considered that a note to applicant would inform the applicant of the comments received.

The sealed Section 106 agreement requires contributions to be made towards improvements to infrastructure, this agreement has trigger points for when contributions are to be made ie, prior to commencement, prior to occupation or when a percentage of the site has been developed.

Finally, affordable housing is to be provided on the site. However it appears from the details submitted that the incorrect information has been provided. Confirmation has been received from the Agent stating the location of the affordable housing units will be

confirmed as part of the affordable housing scheme that is required to be submitted pursuant to the section 106 agreement.

**RECOMMENDATION :- Permit subject to the following conditions :-**

**SUMMARY OF DECISION** - The proposal is in conformity with Policy/Policies BE1, RES1, IMP1, and T5 of the adopted Hinckley and Bosworth Local Plan. Planning permission is granted subject to conditions.

- 1 Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order), no windows shall be inserted on the northern elevation of the dwellings on Plots 37 and 38 without the prior permission of the Local Planning Authority having been granted on a specific application.
- 2 No development shall take place until a planting scheme showing replacement planting for the loss of the protected tree and hedgerow has been submitted and approved in writing by the Local Planning Authority. The scheme shall include species, diameter, height, location and the implementation programme of the replacement planting.
- 3 The approved planting scheme shall be carried out in accordance with the approved details, it shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which dies 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.

**Reasons :-**

- 1 To prevent overlooking in the interests of the amenities of the occupiers of adjoining property to accord with BE1 of the adopted Hinckley and Bosworth Local Plan.
- 2 The development results in the loss of an established hedgerow and a protected Ash tree which in the interests of visual amenity should be replaced to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 3 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy of the adopted Hinckley & Bosworth Local Plan.

**Notes to Applicant:-**

- 1 The applicant should note that the method of disposal of surface water should incorporate Sustainable Urban Drainage System principles. This approach involves using a range of techniques including soakaways, infiltration trenches, permeable pavements, grassed swales, ponds and wetlands to reduce flood risk by attenuating the rate and quantity of surface water run-off from a site. This approach can also offer other benefits in terms of promoting groundwater recharges, water quality improvement and amenity enhancements. Approved Document Part H of the Building Regulations 2000 sets out a hierarchy for surface water disposal, which encourages a Sustainable Urban Drainage System approach.

**Contact Officer:-** T Miller Ext 5809

**Item:** 14  
**Reference:** 06/00490/FUL  
**Applicant:** Mr N Smith  
**Location:** 3 Council Houses Church Road Shackerstone Nuneaton,  
Warwickshire CV13 6NN  
**Proposal:** ERECTION OF WALLS AND GATES

**Introduction:-**

This is a full planning application for the erection of walls and a gate to the front of 3 Church Road, Shackerstone. The opening which has already been created in the wall in itself does not require permission as it is not fronting a classified road. However, the return on the existing wall will require permission as it exceeds 1 metre in height, together with the gate.

The property is one of three pairs of former Council houses of identical design which are sited approximately 40 metres to the north-east of St Peters church which is Grade 1 listed.

**History:-**

04/00975/FUL	Alterations to access including the provision of gates	Refused	28/09/04
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**Consultations:-**

No objections have been received subject to standard conditions from Director of Highways, Transportation & Waste Management

Shackerstone Parish Council have expressed support for the application, commenting that the boundary walls are not of significance and on street parking in the village will be reduced.

Shackerstone Residents Association have expressed concern about the impact of the proposal on the character of the Conservation Area and point out that some residents park and have access to their properties via a track at the rear. They believe the parking issue on Church Road should be resolved by a combined solution for all of the houses rather than a piecemeal approach. They suggest it may be achieved by relocating the front wall further away from the road to create parking for residents only.

No response has been received from:-

Neighbours  
Site Notice  
Press Notice.

**Development Plan Policies:**

Government Advice

Planning Policy Guidance Note 15 Planning and the Historic Environment highlights that that thoroughfares and property boundaries (walls and railings), and the character and



hierarchy of spaces contribute to the special architectural or historic interest of conservation areas.

### Local Plan Policies

The site lies within the settlement boundary of Shackerstone and within the Shackerstone Conservation Area.

Policy BE1 of the adopted Hinckley & Bosworth Local Plan seeks to ensure that planning permission for development proposals will be granted where they complement or enhance the character of the surrounding area.

Policy BE7 seeks to ensure that proposals in conservation areas will preserve and enhance their special character.

### **Appraisal:-**

Shackerstone is a very small settlement in a relatively isolated rural location in the north of the Borough.

St Peters Church, the surrounding roads of Main Street, Church Lane and Church Walk, and the adjacent buildings lie at the heart of the Conservation area and, to a large degree provide the memorable qualities which give the village its unique identity. The most important unifying feature which link the properties are the brick boundary walls, some of which are old and some more recent .

The importance of these walls has been recognised by the Council for many years and much public funding and officer time has been spent to have them rebuilt and preserved. Their protection has also been consistently supported by resisting applications to create new openings, particularly where it is likely that an approval would set a precedent for further applications.

No 3 Church Road is one of a group of three former Council owned semi detached properties which were designed with the same characteristics and details. Only in alignment, do they differ. The boundary wall, which fronts all of the properties, was intended to present a continuous appearance onto the road and reinforce this key characteristic. Only No 4 Church Road has been granted consent to form a new opening in the wall and this was restricted to a pedestrian gate. The owner of No 2 Church Road has demolished the front boundary wall without permission. Enforcement action is being considered.

The main impact of the proposal hinges around the need to retain such features in the Conservation Area. Conservation Area consent is required to demolish the wall, and needs to be subject to a separate application. Despite this, the current application, whilst deals with the impact of the returned wall and gates has to consider the policies relating to development in Conservation Areas ie policy BE7 which preserves or enhances its special character, ie boundary walls.

In support of the application the owner of the property has indicated that on some evenings and weekends in the summer he has experienced difficulties in parking immediately outside his property due to its proximity to the Rising Sun public house. The proposal also seeks to reduce the impact of the proposed opening by adding return wings to the wall adjacent to the opening and inserting a gate. However, officers remain of the opinion that this will not overcome the main concern.

### Conclusion

The front boundary wall to these properties makes a valuable contribution to the character and appearance of the Conservation Area and the proposal would be detrimental to its character.

### **RECOMMENDATION :- REFUSE, for the following reasons :-**

- 1 The proposal would result in a significant intervention into a generally continuous and visually prominent wall within the Shackerstone Conservation Area and the erection of a returned wall and gates. The proposal would therefore be to the detriment of the visual amenities of the street scene and the character and appearance of the Conservation Area, within which it lies contrary to policies BE1 and BE7 of the adopted Hinckley and Bosworth Local Plan.
- 2 In the opinion of the Local Planning Authority, the proposal, if permitted, would be likely to set a precedent for similar proposals that the Local Planning Authority would then find difficult to resist, leading to further erosion of the continuous nature of the boundary wall to the further detriment of visual amenity, contrary to policies BE1 and BE7 of the adopted Hinckley and Bosworth Local Plan.

**Contact Officer:-** B. Whirrity Ext 5619