

**REPORT P49**

**PLANNING COMMITTEE**

**09.01.2007**

**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**

**PLANNING COMMITTEE AGENDA - 9th January 2007 - NUMERIC INDEX**

<b>REF. NO.</b>	<b>APPLICANT</b>	<b>SITE</b>	<b>ITEM</b>	<b>PAGE</b>
06/00850/OUT	Insight Foundation Property Ltd	Jarvis Porter Coventry Road Hinckley	01	01
06/01114/FUL	Farland Trading Ltd	Land Adjacent 121 Station Road Bagworth	02	15
06/01201/FUL	David Wilson Homes (East Midlands)	Land Off Candle Lane Earl Shilton	03	22
06/01274/CONDI T	Mr D Corbett	Cottage Farm 2 Cottage Lane Norton Juxta Twycross	04	34
06/01315/FUL	Mrs P Davenport	Land North of High Walls 6 Mill Lane Witherley	05	39
06/01356/FUL	Aldi Stores Ltd	Aldi Stores Ltd Watling Street Hinckley	06	46

**Item:** 01

**Reference:** 06/00850/OUT

**Applicant:** Insight Foundation Property Ltd

**Location:** Jarvis Porter Coventry Road Hinckley Leicestershire LE10 0JR

**Proposal:** **MIXED USE DEVELOPMENT COMPRISING WAREHOUSE/ STORAGE UNITS (USE CLASS B8), RETAIL WAREHOUSING (USE CLASS A1) AND DRIVE-THRU RESTAURANT (USE CLASS A3/A5) WITH ASSOCIATED PARKING AND ACCESS**

**Introduction:-**

This application proposes outline planning permission for a mixed use development comprising 1,787 square metres of storage and distribution; 11,836 square metres of retail; and a 232 square metres drive-through restaurant. The layout, access and landscaping proposals are included within the application for approval at this stage.

The application site is located close to the town centre to the west and is accessed directly off Coventry Road. Immediately adjacent on the south west and north east are buildings occupied by National Grid. To the north west is Clarendon Park and to the south east is primarily residential.

The application site which measures 3.7 hectares, includes the former Ferry Pickering building, which has been vacant for in excess of 5 years and marketed since. The site is relatively flat but sits lower than Coventry Road.

The existing building is a large industrial unit spanning north to south on the site and is single storey. The area edged blue on the application site plan includes the modern National Grid building which is in the applicants ownership. Consequently, they have indicated that this will be offered up through a unilateral undertaking to restrict its future use to employment for a period of 20 years.

The layout of the proposed development proposes the drive through restaurant to the front of the site in the eastern corner; and the storage and distribution units (of which there are 10) in the western corner. The retail units are arranged in an 'L' shape with the parking area to the front of the units. The retail units vary in size with the largest being 2,972 square metres and the smallest unit being 632 square metres. The scheme comprises parking for 283 cars for the retail uses and 30 spaces for the storage and distribution. In addition, there is rear servicing for the retail units. All vehicular access to the site is proposed from Coventry Road.

The application reserves scale and appearance to the detailed stage, however indicative elevations have been submitted which show typical out of town retail sheds with large glazed sections at ground floor and metal panelling to the first floor. The storage and distribution units are indicated to be profiled metal sheeting, each with a loading door.

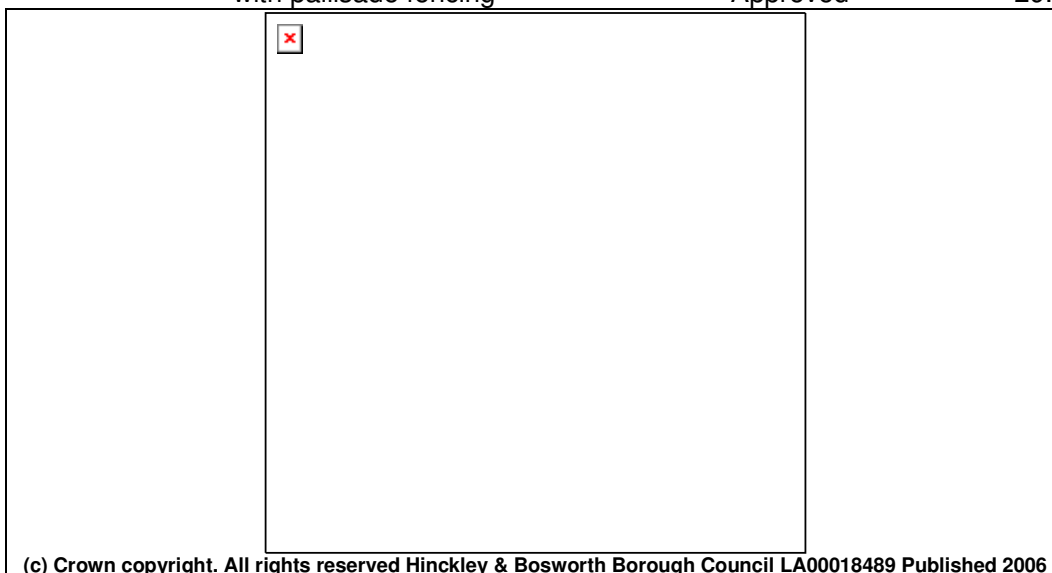
The application was accompanied by a design and access statement; a draft unilateral undertaking; a retail statement; and a transport appraisal. The design and access statement submitted gives overall design consideration and objectives. These include: creating an attractive place with its own identity; an attractive external realm that works effectively for all users including disabled and elderly people; a scheme where the scale and size of buildings relate to each other and their surroundings; regard for the use of

appropriate materials for the area and a development that meets the expectations and requirements of retail operators and their customers.

The Retail Statement concludes that there is a very significant outflow of comparison goods expenditure from the 10 minute drive time catchment area of the town, which impacts on increased travel time for residents and employment for the town. The town is unable to meet the needs of certain retailers in its central area, for example Matalan at 30-40,000 sq ft. The site is within easy walking distance of the town centre (160 metres) and is on a well connected route. Despite extensive marketing since 2001, no industrial users have found the site acceptable, although it is recognised that there is a need to retain 50% employment on the area defined within the Local Plan which includes this site. They are of the view that Hinckley has stabilised as a retail centre and vacancy rates are below the national average and retailers wishing to be represented in the town are at the highest since records began in 1991. Wickes and Matalan have firm commitments to the town centre and would retain expenditure.

### History

97/00639/FUL	Erection of warehouse with office accommodation	Approved	17.09.97
97/00996/ADV	Erection of free standing internally illuminated sign	Approved	10.12.97
98/00691/FUL	Retention of external lighting columns to car park	Approved	16.09.98
00/00440/FUL	Erection of canteen	Approved	20.07.00
06/01369/OUT	Erection of warehouse/ storage units, retail warehousing, drive-thru restaurant and associated parking	Withdrawn	12.06.06
06/00813/FUL	Installation of portable generator with pallisade fencing	Approved	29.08.06



### Consultations:-

No objections subject to conditions have been raised by Severn Trent Water

Cyclists Touring Club suggests that the scheme should incorporate a cycle lane to the front of the site to conform with the Borough Council's Cycling Strategy. Coventry Road is a heavily used road and this development would add to vehicle movements in the area, therefore the safety of cyclists should be considered. A cycle lane would help to address this issue.

The Borough Council's Land Drainage Engineer comments that a sustainable drainage system should be incorporated into the detailed development proposals which addresses the volumes of rainwater run-off and means of disposal along with run-off contamination arising from the large area of parking. A condition is suggested.

Director of Community Services (Archaeology) considers the site is disturbed therefore there is a low potential of there being any archaeological remains on the site.

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

- Director of Children and Young People's Service - No contribution as there is no residential element to the scheme.
- Head of Commercial and Support Services - No contributions required
- Natural Life Project officer - The application proposes demolition of a built structure. Potential bat roost sites may therefore be destroyed. It is recommended that bat bricks and boxes should be incorporated into the design and native trees are planted that are common to the area to establish feeding grounds for the bats. It is further recommended that green corridors are maintained/established along the boundaries as this furnishes wildlife links between habitats. Clarendon Park has previously been evaluated as a Local Wildlife Site, therefore the proposed development should have no adverse impact on this site.
- Director of Highways, Transportation and Waste Management - No contributions required.

Head of Health and Environment comments that an indicative scheme for ventilation serving any form of A3 use on the development will be required. It would be beneficial if this was submitted for consideration as part of the application to ensure a satisfactory solution can be reached in terms of its suitability and appearance. Conditions are suggested regarding contamination, ventilation, noise and light pollution.

The Director of Highways, Transportation and Waste Management (Highways) raises no objections to the scheme but comments that there will be a requirement for contributions towards the improvement of the 4 nearest bus stops and towards the Star Trak public transport information system. These contributions will be required as part of a legal agreement or obligation. The requirement of a cycle lane as suggested by the Cyclists Touring Club should be considered and would be in line with the Borough Council's strategy for implementing a cycle network in the main urban area.

The Leicestershire Constabulary Crime Reduction Officer raises no objections but has concerns that no measures of crime reduction are mentioned in the design and access statement. The site should include a perimeter fence and should be made less permeable to reduce the risk of crime. Good quality lighting should be provided across the site and landscaping should not impede natural surveillance. The car parks should follow the secure by design ethos and should be applied to this development, Park Mark status should be achieved and should be secured by condition.

The Environment Agency objects to the proposal on the grounds that the proposed development may present a significant flood risk from the generation of surface run-off and a flood risk assessment has not been submitted as required by Planning Policy Guidance

Note 25. The site itself sits outside the floodplain. However development of this size can generate significant volumes of surface water and the impacts and risks posed by this will vary according to the characteristics of both the development and the catchment. A flood risk assessment should be submitted that fully addresses the risk of flooding associated with any increase in surface water run off from the site.

The Borough Councils Green Spaces Manager considers that as the site is adjoining Clarendon Park further details of landscaping along the boundaries should be required. This should include a planting schedule that indicates species type, size and quantities to be used and also a programme of aftercare / establishment.

Neighbours notified, 3 letters of objection have been received raising the following points:-

- i) increase in traffic causing disturbance to residential area
- ii) increase in traffic will be a hazard to pedestrians especially the children that attend local schools.
- iii) this type of development should be located outside of the town to eliminate domestic disturbance and to reduce environmental impact.
- iv) the access is shared with the National Grid adjacent, at no time should the access be restricted either during construction or once the site is operational, furthermore consideration should be given to the health and safety of National Grid staff and visitors during construction especially around the junction.
- v) the junction will be used by light vans and articulated goods vehicles, therefore the road will need widening to accommodate this.
- vi) vehicle access to Brandon Road should be curtailed as it is currently used as a short cut and this is likely to increase
- vii) there should be better enforcement especially around the 'no left turn' junction.
- viii) increased parking problems within the area
- ix) increase in anti-social behaviour and litter problems in the area
- x) further light pollution
- xi) increase in noise levels
- xii) what measures are in place to improve security and minimise the risk of crime?

At the time of writing the report no comments have been received from:  
Nuneaton and Bedworth Borough Council  
Blaby District Council

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

#### National Planning Policy

Planning Policy Statement 1: Delivering Sustainable Development sets out the overarching principles for sustainable development. It seeks to provide social progress that recognises the needs of everyone, effective protection of the environment, the prudent use of natural resources, and the maintenance of high and stable levels of economic growth and employment. It also requires Planning Authorities to ensure that sustainable development is treated in an integrated way in their development plans.

Planning Policy Statement 6: Planning for Town Centres advises that to deliver the Governments objective of promoting vital and viable town centres, development should be focused in existing centres in order to strengthen and regenerate them. Extension of the town centre may be appropriate where a need for large developments has been identified and this cannot be accommodated within the Centre.

In the context of development control applicants should demonstrate:

- a) the need for the development

- b) the development is of an appropriate scale
- c) there are no more centre sites for the development
- d) there are no unacceptable impacts on existing centres
- e) that locations are accessible.

Planning Policy Guidance Note 13: Transport seeks to integrate planning and transport at national, regional, strategic and local level to promote more sustainable transport choices for both people and for moving freight, promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling, and reduce the need to travel, especially by car. It requires Local Authorities to establish a hierarchy of town centres, taking account of accessibility by public transport, to identify preferred locations for major retail and leisure investment. Preference should be given to town centre sites, followed by edge of centre, and only then, out of centre sites in locations, which are (or will be) well served by public transport.

Planning Policy Guidance Note 25: Development and Flood Risk explains how flood risk should be considered at all stages of the planning and development process in order to reduce future damage to property and loss of life.

### Regional Planning Policy

Regional Spatial Strategy for the East Midlands (RSS8, 2005) provides a broad development strategy for the East Midlands up to 2021. Strategy Policy 23 stresses the need to promote the vitality and viability of existing town centres. Regional priorities have been informed by the Regional Town Centres Study (2003), which contains priorities for support, including Hinckley, in the Three Cities Sub-area. Although it advises that Local Authority Planning policies should prevent out-of-town retail development, they should also bring forward opportunities within the town centres to meet identified need.

The Draft East Midlands Regional Plan is currently out to public consultation. Upon adoption (early 2008), this Draft Regional Plan (RSS8) will direct development in the East Midlands up to the year 2026. In due course, policies in the Regional Plan will replace those in adopted Structure Plans and it will be the key document in setting future spatial policies for this Authority in its Local Development Framework. Policy 2 sets out a sequential approach to selecting land for development to help realise the Plan's vision of sustainable development. Policy 21 relates to regional priorities for town centres and retail developments and advises that local planning authorities should bring forward retail and leisure development opportunities within town centres based on identified need whilst preventing the development or expansion of out-of-town developments.

### Strategic Planning Policy

Policy at County level is provided by the Leicestershire, Leicester and Rutland Structure Plan (1996-2016). The relevant policies are:

Strategy Policy 2A seeks to prioritise the order for land to come forward for development. It prioritises brownfield land in urban areas for development moving onto land within or adjoining rural centres, the last priority is other locations subject, where relevant, to the considerations in other policies.

Strategy Policy 2B sets out criteria to be applied when considering the suitability of land for development.

Strategy Policy 9 stresses that mixed use development is of particular importance to promote vitality in the regeneration of urban areas including town centres. Account should be taken of the scale of development proposed, the range of land uses in the vicinity and existing need in the area.

Strategy Policy 10 lays down the criteria to be applied for good design.

Strategy Policy 11 sets out the requirement for developers meeting the costs of infrastructure improvements.

Employment Policy 5 ' Review and Protection Employment land and Buildings' of the adopted Structure Plan only supports other uses or mixed development if the change would not result in a shortage of employment land in the area or the land is no longer suitable for employment purposes.

Central Areas and Shopping Policy 1 advises that the role of the central area of Hinckley, among others, will be sustained and increased, and, where appropriate, expanded through the provision of retail, other central area facilities, office development and mixed use developments.

Central Areas and Shopping Policy 3 relates to out-of-centre retailing although this does include 'edge of centre' locations. This Policy reflects Government Policy in PPS6, acknowledging that small amounts of trade diversion are likely to have an adverse impact on town centres. However, where out-of-town centre developments can be justified they should be easily accessible to people within their catchment areas, including easy access on foot or by a realistic choice of transport. A centre's attractiveness and diversity, mix and range of shops and services, and its role in the community, are also factors that should be taken into account in considering the retail impact of out-of-centre proposals. Approval of out-of-centre schemes should be accompanied by planning conditions controlling the size, subdivision and mezzanine floors, and the types of goods sold.

Accessibility and Transport Policy 1 requires developers to maximise the potential for access to and from new development by walking, cycling and public transport.

Accessibility and Transport Policy 2 promotes the provision for walking and to take other measures to reduce the number of traffic movements.

Accessibility and Transport Policy 3 promotes the provision for cycling.

Accessibility and Transport Policy 7 lays down the parking requirements for new developments and provides that the maximum limit will only be permitted where the applicant can demonstrate that a higher level is required.

#### Local Planning Policy

Policy at Local level is provided by the adopted Hinckley and Bosworth Local Plan 2001.

Strategic Objective 1 seeks to provide opportunities for investment in the Borough and promote economic growth through sustainable development. Objective 1e protects Hinckley Town Centre as a major shopping area and Objective 1f generally resists large out of town shopping centres and road related development that will adversely affect the viability of existing centres.

Strategic Objective 5 seeks to reduce growth in energy use through the promotion of sustainable development that seeks to reduce transport movements. Objective 5c seeks to safeguard and enhance shopping facilities in local centres and villages and requires provision to be made for new development by identifying and safeguarding appropriately located land.



Policy IMP1 recognises that new development impacts on infrastructure and provides the mechanism to require the developer to make contributions towards either new or improved infrastructure and facilities.

Policy BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Proposals are to be assessed against the criteria within the policy.

Policy BE26 seeks to protect the environment and visual amenity through the reduction of light pollution.

Policy T3 requires provision for bus access and appropriate supporting infrastructure where planning permission is granted for major new development.

Policy T5 lays down the highway design and vehicle parking standards for new developments.

Policy T9 requires proposals for new development to have regard to walking and cycling as a safe and convenient means of transport; key routes for pedestrians and cyclists that should be identified and protected; and provision of facilities for parking cycles.

Policy T10 requires secure cycle parking facilities at public transport interchanges, shopping centres, libraries, educational institutions and other major developments within the borough.

Policy T11 requires the submission of a traffic impact assessment of proposals where they are likely to generate significant traffic flows, especially heavy goods vehicles.

Policy EMP1A states that the Local Planning Authority will actively seek to retain employment sites that are considered important to the economy of the Borough.

Policy Retail 1 states that proposals for major retail development outside of Hinckley Town Centre will not be granted unless:

- there is a demonstrable need
- there are no suitable sites in the town centre or edge of town centre
- there is no detrimental impact on the vitality and viability of the town centre
- it can be served by public transport and maximises opportunities for access by foot and bicycle.

Policy Retail 10 provides guidance for proposals for the sale of food and drink, it suggests proposals for such uses will be acceptable in Hinckley Town Centre or Local Shopping Centres providing there is no adverse impact on the amenity of residents; and that satisfactory off-street parking is provided.

#### Other Relevant Policies

The Employment Land and Premises Study, commissioned by the Borough Council in 2003 recommends a mixed use development of the whole site (the Transco HQ/Jarvis Porter employment site) incorporating employment activities and alternative uses as appropriate. It advises that 50% employment use is retained.

Hinckley Area Cycling Network Plan aims to secure more sustainable forms of transport, the promotion and provision of cycling infrastructure is now a key policy area at both national and local level. Within the Plan Radial 4 which focuses upon and joins at Hinckley Leisure Centre, it specifically refers to Coventry Road and states that it is sufficiently wide over much of its length to accommodate on-carriageway cycle lanes. It requires that special attention must be given to pinch points at junctions and points where central

reservations oblige motor vehicles and cyclists to compete for space. Wherever the cyclist is likely to be threatened in this way, cycle slips must be provided to by-pass the danger spots.

In response to the need for consolidated car parks and highway improvements the Borough Council and County Council have commissioned White Young Green to carry out a Transport Assessment Framework for the Hinckley Town Centre Masterplan. This report considered highway improvements, consolidated car parks, public transport and pedestrian and cycle improvements and the total cost of those works with the intention of equalising this cost across the 8 Masterplan sites. However, it is recognised that further large sites beyond the 8 Masterplan sites will come forward during the period when these documents are being prepared; the Jarvis Porter site is an example of this. As the document is still in draft, the site has been included for consideration due to its likely impact on the town centre.

### **Appraisal:-**

The regeneration of sites within the Borough is high on the Borough Council's agenda, which echoes Local Government objectives. Specifically, the regeneration of Hinckley Town Centre is a key priority which is highlighted by the adoption of the Masterplan.

The application site is only a short distance from the town centre and has been vacant and marketed for a number of years. It is considered that the redevelopment of the site would as a whole significantly contribute to the regeneration priorities of the Borough Council.

However, there is a necessity for applications to accord with all policy, National Regional and Local. In particular, this application should accord with the criteria laid down in Planning Policy Statement 6. If it is considered that the criteria in Planning Policy Statement 6 are met and subsequently recommended for approval, the application would be referred to the Government Office for the East Midlands. It is highly likely, due to the nature of the application, that Government Office would call the application in.

Planning Policy Statement 6 identifies a hierarchy for types of locations. A sequential approach should be applied in selecting appropriate sites for allocation within the centres where identified need is to be met. All options in the centre should be thoroughly assessed before less central sites are considered for development for main town centre uses. The sequential approach requires that locations are considered in the following order:

- i) existing centre location, i.e. town centre
- ii) edge of centre - defined as a location well connected to and within easy walking distance, i.e. up to 300 metres of the primary shopping area.
- iii) out-of-centre defined as those not in or on the edge of a centre but not necessarily outside the urban area
- iv) out-of-town development outside the existing urban area.

#### Principle of a non-employment use occupying the site

The site is identified in the Hinckley and Bosworth as an employment site that should be retained as such. However the Employment Land and Premises Study 2003 redefines the importance of the employment element and proposes that only 50% should be retained in employment use, with the other 50% being developed for alternative uses. Although the application site does not meet this requirement, with the inclusion of the land and building in the applicant's ownership adjacent, and the proposed new units on the site, this achieves the required level. The applicants have submitted a unilateral undertaking to ensure this is retained for employment use for 20 years. This is considered to satisfy the policy and therefore is not contrary to Policy EMP1A of the Local Plan or Employment Policy 5 of the adopted Structure Plan .

### Principle of Retail uses on the site

When considering whether retail is a suitable use on this site guidance should be taken from Planning Policy Statement 6 initially. This requires applicants to demonstrate the following:

- a) the need for the development
- b) the development is of an appropriate scale
- c) there are no more central sites for the development
- d) there are no unacceptable impacts on existing centres
- e) that locations are accessible

Taking these each in turn

- a) The need for the development

Need must be demonstrated for any application for a main town centre use which would be in an edge-of-centre or out-of-centre location and which is not in accordance with an up-to-date development plan document strategy. Specific considerations in assessing need for retail and leisure development are set out below:

- i) Quantitative Need

There is no up to date Retail Capacity Study carried out for the Town Centre, and the application is ahead of the Action Area Plan within the Local Development Framework, therefore the application has to be assessed on its own merits based on the needs assessment submitted with the application. Consideration has to be given to the probability of sites coming forward for development in the Town Centre within a five year period. The catchment area used to assess future need should be realistic and well related to the size and function of the proposed development and take account of competing centres. The retail impact assessment submitted with the application demonstrates there is a general outflow of clothing expenditure leaving Hinckley, in the region of £12.43m turnover. In addition, the assessment indicates that existing DIY is overtrading, although based on anecdotal evidence. This is supported by the existing B & Q store seeking to move out of town to larger premises and a firm commitment from Wicks to trade from the application site. However, there has been no quantitative need assessment carried out by the applicant for other potential proposed uses, i.e. Pets at Home. Any further assessment submitted will be reported as a late item.

- ii) Qualitative Need

Consideration needs to be given to the following:

- an appropriate distribution of locations, and
- provision for a range of sites for shopping, leisure and local services, which allows genuine choice to meet the needs of the whole community.

Other considerations may also be taken into account, such as overtrading of existing shops. However, additional benefits in respect of regeneration and employment may be material considerations in the site selection process.

The Retail Impact Assessment submitted identifies Matalan as providing a unique retail offer with a specific purchasing philosophy which results in a need for a size of unit that is unlikely to be found in the Town Centre. As already stated the Retail Impact Assessment identifies that the existing DIY stores are overtrading, therefore a qualitative need for DIY could be justified. Again, there has been no evidence submitted by the applicant for

qualitative need for the other proposed uses, and the applicant will be requested to do so. Any further submission of evidence will be reported as a late item.

b) the development is of an appropriate scale

Planning Policy Statement 6 requires Local Planning Authority's to set an indicative upper limit for the scale of a development which is likely to be acceptable in particular centres for different facilities in their development plan documents. In cases such as this where no development plan document has been prepared, the Local Planning Authority should ensure that the scale of opportunities identified are directly related to the role and function of the centre and its catchment. It is therefore necessary for the applicant to demonstrate that the scale of the development proposed cannot be accommodated within the town centre and that the scale proposed is appropriate for the location of the site and its catchment. It is considered that the applicants have failed to address this issue in their submission.

c) There are no more central sites for the development

The supporting documentation demonstrates that there are no other available sites sequentially from the town centre for the development as a whole. However, PPS6 requires the scope for disaggregation to be considered. This requires exploration as to whether specific parts of a development could be operated from separate, sequentially preferable sites. It requires the applicant to consider the degree to which the constituent units within the proposal could be accommodated on more centrally-located sites in accordance with the objectives and policies in Planning Policy Statement 6.

As the application proposes varying sizes of independent units, it is considered that the applicant must consider whether any of the units could be located on alternative, sequentially preferred sites. This information is currently awaited from the applicant, but without this information the application cannot be supported as it would be contrary to Government Guidance.

d) Impact on existing centres

Local Authorities are required to consider the impact of any proposal, that is either an edge of centre or out of centre site, on the vitality and viability of existing centres within the catchment area of the proposed development. It states that the identification of need does not necessarily indicate that there will be no negative impact. In particular, Local Planning Authorities should consider the impact of the development on the centre or centres likely to be affected, taking account of

- i) change in hierarchy
- ii) effect of investment needed in the existing centre
- iii) impact on trade / turnover of the existing centre
- iv) changes to range of services provided by centres that could be affected impact on number of vacant units in primary shopping areas
- v) potential changes to the quality, attractiveness, physical condition and character of the centre, and to its role in the economic and social life of the community.

It is considered that there may be capacity for an additional DIY store by virtue of the overtrading of the existing B & Q store but also Wicks concentrate on the heavy end of the DIY enthusiast, local tradesman and builder, i.e. generally 35 % of turnover will be to trade. With regards to Matalan, the uniqueness and purchasing philosophy along with the format of the retailer requirements is unlikely to cause a detrimental impact on the town centre. However, again the applicants have failed to demonstrate that the other proposed units will not have an adverse impact on the town centre.

e) The locations are accessible

It is necessary for local planning authorities to consider the need for accessibility by a choice means of transport, and the impact on car use, traffic and congestion.

The proposal is considered to be easily accessible by public transport, cycling (with extension to existing cycling network) and car. This is further enhanced with the required improvements to public transport bus stops. With regards to pedestrian accessibility, the site is located only 20 metres further from the Town Centre than the acceptable distance suggested by Planning Policy Statement 6. The route into the town centre, is not well connected as it is physically separated by Trinity Lane. However, there is a good pedestrian crossing facility across this road and on balance this provides a safe and convenient access.

A full Transport Assessment has been submitted by the applicant. This has been assessed by the Highway Authority who has raised no objections subject to adequate provision of parking, improvements to existing public transport systems and provision of a cycle route.

#### Design and Impact on Surrounding Area

The site currently comprises vacant, unattractive industrial style buildings, that due to non-occupation have been neglected. It is considered that this adversely impacts on the visual amenity of the area, therefore re-development of the site would provide opportunity for an environmental gain.

The proposal seeks two distinct uses: small units that are located to the rear of the site behind the existing modern National Grid Building; and the larger retail units. Whilst the design of these units does not form part of the application, indicative elevations have been submitted and the design and access statement discusses the basic design principles.

The retail units are designed in a terrace which allows flexibility for sub-division to meet changing retailer needs. There is a clear need for the internal height of the buildings to be 6m. It is anticipated that the main façade facing the car park will be unobstructed retail frontage served by a broad colonnade walkway protected by building entrances. Materials are likely to be facing brickwork and composite cladding panels broken up by the main structural grid. The frontage will be accentuated by areas of glazing at the unit entrances. The roof will be a low pitch with a profile sheet finish.

The B8 units are also arranged in terraces, again with an internal height of 6m anticipated. These units are likely to be clad in profiled sheet cladding laid horizontally. Each unit will have a loading door. The roofs will be clad in metal sheets with rooflights. It is proposed that the use of silver metallic finish to the cladding will accentuate the simple clean and crisp lines of the building.

It is considered that, if planning permission were to be granted, careful consideration should be given to the design at the detailed stage to ensure an appropriate form of development ensues. However, the indicative designs proposed are considered to be relatively typical to that normally found on retail parks and would provide an improvement to the visual appearance of the site and the surrounding area. It is further considered that the design of the drive through takeaway unit on the site frontage should offer a more interesting design to the retail units to ensure a positive contribution is made to the street scene.

The B8 units will largely be seen from Clarendon Park, due to the location behind the National Grid building. The design of these units is therefore also important. Any impact on the openness of Clarendon Park by bringing built form closer to it can adequately be mitigated by comprehensive landscaping, which will be addressed later in this report.

### Highways Considerations

The applicant submitted a Transport Appraisal with the planning application which addresses the location and accessibility to the application site. It also addresses traffic generation and methods of sustainable transport. The Director of Highways, Transportation and Waste Management has indicated that subject to appropriate highway improvement works and contributions to the wider transportation infrastructure relating to accessibility of this site to the town centre, in line with the findings of the Transport Appraisal the proposal may be acceptable. These improvements include the provision of a right hand turning lane. There will also be a need to provide financial contributions towards the improvements of methods of public transport, namely improvements to bus stops in the area, and the Star Trak public transport information system.

In addition to the above the Transport Framework Assessment report by White Young Green, commissioned by the Borough Council and County Council, identifies a need for contributions towards highway improvements and town centre parking. However, as this report is in early stages of preparation and is not adopted or approved by the Borough Council it is not considered that the contributions identified at this stage have been fully appraised and will need further detailed analysis. This work has been commissioned. There will, however, be a requirement for financial contributions towards the shortfall of parking on the site.

The Cyclists Touring Club has identified need for additional cycle lane facilities to the front of the site. This is in line with the Borough Council's adopted Hinckley Area Cycling Network Plan. This requires improvements to existing cycle routes giving special attention to points where motor vehicles and cyclists compete for space. It is considered that if planning permission were to be granted a planning condition could be imposed that requires the provision of a cycle lane to the front of the site.

Concerns have been raised regarding the increase in traffic and the consequent disturbance from the additional traffic movement, in particular HGV traffic. The site, whilst vacant currently, could at any time be occupied by an employment use, therefore the existing potential traffic movements have to be considered when assessing whether there will be an increase in movement.

The applicants have submitted HGV traffic movement's data based on the site being used for the existing use compared to that of the proposed use. The submitted details indicate that the proposed use will have a reduced amount of HGV traffic to that of the existing use. With regards to concerns of impact on road network, highway safety and pedestrian safety, the Highways Authority has suggested conditions that seek to mitigate any adverse impacts on the highway network and safety. With no objections from the Highways Authority it would be difficult to justify refusal of the application on highway grounds.

### Drainage Considerations

The Environment Agency raises concerns that a flood risk assessment has not been carried out, which is normally required for large schemes. Until this has been completed and any necessary mitigation identified, the Environment Agency recommends refusal.

The Borough Council's Land Drainage Engineer suggests a sustainable drainage system is required and an appropriate condition to avoid any contamination

### Landscaping

The application proposes to provide boundary planting to the road frontage to improve the visual appearance of the street scene whilst not creating a visual barrier. This planting

would be low shrubs set back behind an avenue of Birch Trees with grassed areas to reflect the playing field opposite.

The proposed boundary planting to the north-east and north-west will create a landscape buffer between the development and Clarendon Park. The draft unilateral undertaking submitted with the application proposes landscaping works to the north-west and maintenance thereof to a cost of no more than £32,500 in total.

Further planting is proposed within the car park which will assist with the softening of what will be large hard surfaced car park.

Hard landscaping within the site is proposed and will consist of brick paviours along the colonnade walkway with walkways extending into the customer parking area. The car park areas themselves are proposed as tarmacadam with feature bands of block paving to highlight pedestrian routes and around landscaping. All surface junctions will be level to allow access for disabled persons, wheelchairs, prams and trolleys. The service yard to the rear will be finished with brushed concrete.

All areas will be illuminated from low level lighting to avoid the spread of light pollution beyond the site boundaries.

It is considered that the proposals for soft and hard landscaping are comprehensive and as such would be acceptable subject to conditions.

#### Financial Implications

As the development does not include residential, there are no specific requirements for developer contributions other than that addressed in the highway considerations and landscaping section above.

#### Other Issues

Concern has been raised that this type of development should be located out of the town to eliminate domestic disturbance and to reduce environmental impact. However, Government policy requires proposals such as this to preferably be located in the Town Centre and if not possible be as close to the Town Centre as possible to ensure sustainable development. To move this type of development further from the Town Centre would not be in line with Government policy requirements.

Concerns have been raised regarding pollution, in terms of light and noise. The Head of Health and Environment has considered these issues and as such has recommended conditions requiring a scheme for protecting neighbouring dwellings from noise and details of external lighting of the site to be submitted prior to commencement of development.

As previously stated the site is currently vacant, it is considered that vacant sites such as these are an attractor of anti-social behaviour. Bringing the site back into productive use is likely to eliminate any anti-social behaviour rather than encourage it. Concerns of such are therefore considered unfounded.

Finally, issues of disturbance and obstruction around the shared access are considered civil matters and should be resolved between the parties involved should any issues arise. The developers will be responsible for ensuring the shared access is not obstructed either during construction or operation. It is not a matter to be addressed under planning legislation.

#### Conclusion

Despite there being a recognised need to regenerate the existing site and encourage investment into the area, the applicant has failed to adequately justify that the site has fully passed all of the requirements of government guidance, in particular Planning Policy Statement 6, and meet the development plan policies. Furthermore an appropriate level of transportation contribution needs to be determined based on the need to ensure good accessibility to the site for all users to and from the town centre. On the basis of these factors the application is recommended for refusal.

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

- 1 In the opinion of the Local Planning Authority, the applicant has failed to demonstrate that the proposed development adequately meets the criteria set out in paragraph 3.4 'Assessing Proposed Development' in Central Government Guidance Planning Policy Statement 6: Planning for Town Centres and contrary to Strategy Policy of the Regional Spatial Strategy for the East Midlands (RSS8, 2005), and Policy Retail 1 of the adopted Hinckley and Bosworth Local Plan 2001.
- 2 In the opinion of the Local Planning Authority the proposed development does not provide adequate car parking within the site which would result in vehicles parking on-street on one of the main artery routes into the town centre (and not be in the best interests of highway safety). It is therefore contrary to policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 3 In the opinion of the Local Planning Authority the applicant has failed to provide a flood risk assessment to meet the requirements laid down in Central Government Planning Policy Guidance Note 25: Development and Flood Risk, and is contrary to policy NE13 of the adopted Hinckley and Bosworth Local Plan.

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

**Item: 02**

**Reference: 06/01114/FUL**

**Applicant: Farland Trading Ltd**

**Location: Land Adjacent 121 Station Road Bagworth Leicestershire**

**Proposal: MIXED USE DEVELOPMENT COMPRISING THREE RETAIL UNITS (USE CLASS A1, A3 AND D1) AND NINE APARTMENTS WITH ASSOCIATED PARKING AND ACCESS**

**Introduction:-**

This full application is for the development of part of the former colliery site at the junction of Station Road and Maynard Close, which is now vacant. The site area measures 0.25 hectares, and dips slightly towards the middle of the site. The site is surrounded by a mixture of new detached properties and a Victorian terrace with associated garages. Vehicular access is off Station Road along the former colliery access road, which, adjacent to the development, is part of the application site. This road also serves the Parish Council car park, the sports ground, the fields and the public access woodland beyond. The owners of the terraced properties also have a right of access along this road to the rear of their properties.

The scheme originally submitted was for a three-storey development of 14 apartments over 3 retail units. Following detailed discussions with planning officers, a revised proposal has



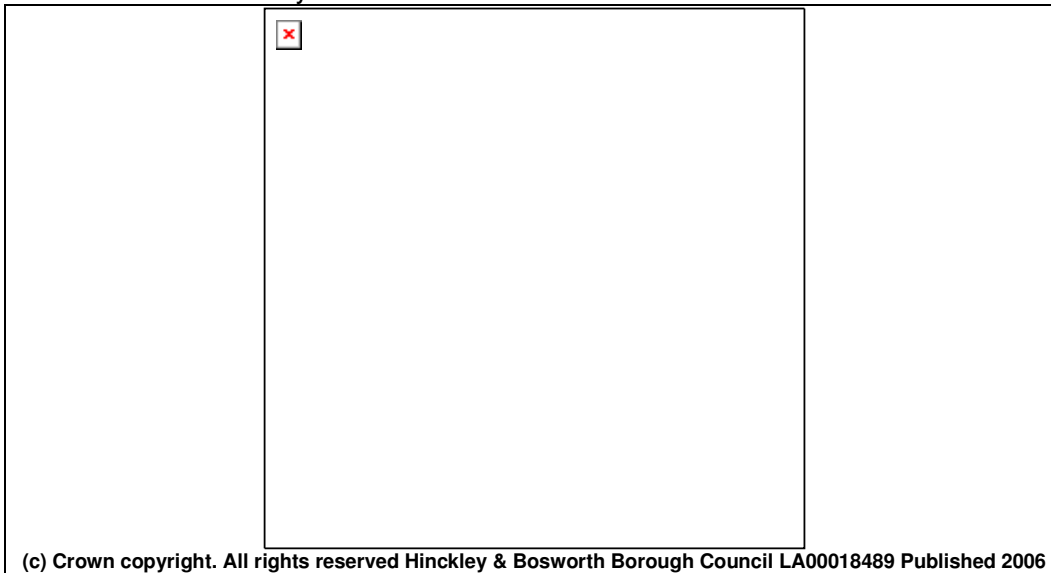
been submitted. This consists of a continuous two-storey block of seven apartments above three retail units, which fronts both Station Road and Maynard Close. A further two apartments within the roof space and a curved projecting form at the intersection of the two roads has created a strong landmark on Station Road onto the mini roundabout. Nine apartments have been provided in total. The rear elevations which front the car park have also been revised and include short balcony access ways at first floor level accessed by separate external stairs. Thirty-three car parking spaces have been provided.

A Design and Access Statement has been submitted with the scheme, which identifies the importance of providing local facilities on this site and creating a focal point at this part of Station Road.

The scheme seeks to provide a high quality development that maximises the potential of the site, increasing the variety of residential development in the area, while at the same time respecting the scale and setting of adjacent buildings. The mass, scale, form, elevations and materials, have all been addressed through the design statement and the revised scheme.

**History: -**

99/00820/OUT	Residential development & associated open space including village green & play areas & provision of local retail facility.	Approved 01.05.01 including a Section 106 Agreement to cover improvement to local infrastructure & facilities
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**Consultations:-**

Director of Community Services (Rights of Way) advises that footpath Q85 abuts the southern boundary of the application site and a 1.8 metre wide footway should be constructed by the developer along the southern side of the access road to a specification agreed with the Southern Highways Manager.

Director of Highways, Transportation and Waste Management has provided an initial response. They have no objection in principle to the proposed development, however they have some highway concerns and final comments will be reported to Committee as a late item.

Hinckley & Bosworth Borough Council Green Spaces Manager has advised that a financial contribution is required to improve formal and informal open space at the Bagworth Community Centre, which are approximately 343 metres from the site.

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

The Head of Health and Environmental Services  
The Land Drainage Engineer  
Severn Trent Water Ltd.

No response has been received to date on the revised scheme from: -  
Environment Agency.  
Bagworth Parish Council.

The Leicestershire Constabulary Crime Reduction Officer comments that a good standard of lighting should be provided in the car park, consideration should be given to the use of CCTV surveillance, and concern is expressed about the security in the passageway which links both sides of the building and the potential for vehicles to be parked in front of the shops on Station Road.

Neighbours notified, together with the Site and Press Notices posted; 130 letters of objection have been received to the original proposal for a three storey development of 14 apartments over three retail units.

The main issues raised are:

- a) Scale of proposed development
- b) Development conflicts with local character
- c) Noise Pollution
- d) Light deprivation
- e) Loss of privacy
- f) Increased traffic volume
- g) Road safety issues
- h) Adverse effect on village life
- i) Building design and use out of character with locality
- j) Litter and vermin
- k) Pedestrian /vehicular activity during day and evening/night

At the time of writing this report, no responses have been received in relation to the amended proposal. Any further representations will be reported on the late item agenda.

## **Development Plan Policies:-**

### Central Government Guidance

Planning Policy Statement 1: Delivering Sustainable Development (PPS1) refers to the delivery of sustainable development through the planning system. It advises that planning policies should protect and enhance the environment, promote high quality design and reinforce local distinctiveness.

### Structure Plan Policies

Leicestershire, Leicester and Rutland Structure Plan 1996-2016 adopted 6th March 2005 states in Strategy Policy 10 'Good Design' that good design will be promoted by ensuring that development provides for efficient use of land in a manner which satisfactorily acknowledges environmental and amenity interests and protects and enhances the form and character of the built and natural environment.

Strategy Policy 11 'Developer Contributions' ensures that developers meet the requirements and costs of relevant infrastructure to support the development.

Central Areas and Shopping Policy 5 'Shopping and Other Facilities in Rural Areas' ensures that new shops needed to meet local needs in rural centres and villages will be approved subject to being of a scale, size, form and character appropriate to the settlement.

### Local Plan Policies

Policy Retail 9 in the adopted Hinckley and Bosworth Local Plan seeks to safeguard the site for local shopping facilities.

BE1 seeks to safeguard and enhance the existing environment and states that planning permission will be granted where development complements or enhances the character of the surrounding area and has regard to the safety of individuals, ensures adequate highway visibility for road users and adequate street parking, does not adversely affect the occupiers of neighbouring properties.

Policy T5 of the Local Plan refers to the provision of adequate standards for new accesses, highway design and parking provision for new development.

Policies REC2 and REC3 require the appropriate level of open space to be provided within the development site, or alternatively a financial contribution to be negotiated towards the provision of new recreational 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.

Policy IMP1 ensures that appropriate contributions towards the provision of infrastructure and facilities are made which are commensurate with the scale and nature of development proposed together with the Borough Council's Section 106 Strategy.

The Borough Council's supplementary planning guidance gives advice on new residential development.

The Bagworth Village Development Brief contains proposals for a shopping facility in the centre of the village and identified this site for a village store.

### **Appraisal:-**

The site lies within the settlement boundary of Bagworth as designated in the adopted Hinckley and Bosworth Local Plan.

The principle issues to be considered with this proposal are design, access, amenity and the previous Section 106 agreement protecting the site for retail/community use.

### Design

The site is in a prominent location on Station Road. The development consists of a continuous block which fronts Station Road and Maynard Close but which also, by the use of a curved corner element, creates a strong focal point at the road intersection to highlight the location of the local shopping centre.

The revised design for the proposed building is generally in keeping with the form of the Victorian terrace immediately to the south of the site and is of very similar height but is much shorter in length. The introduction of windows of varying size and small set backs on the elevations has added further interest to the street scene.

At the rear, access to each pair of apartments is via separate external staircases and along short lengths of balcony. These elements reduce the visual bulk of the elevations and permits passive surveillance of the car parking areas.

### Access

Vehicular access into the site makes use of an existing access point onto Station Road and is off the existing former colliery access road. The road also provides access to the Parish Council car park and the occupants of the Victorian terrace properties also have a right of access to the rear of their properties. Within the application site, the road will be improved and a 1.8 metre wide footway incorporated as part of the development. The advice of the Highway Authority will be taken on road safety and highway matters and reported to Committee on the late item agenda.

### Amenity

The development complies with the Borough Council's design standards controlling minimum distances between habitable rooms. However the impact of the development and car parking on the existing properties along Maynard Close can be further reduced by the introduction of a planting buffer zone along the joint boundary and this will form part of a conditional requirement. Officers have also negotiated changes to the window layout, which will also reduce the impact on the amenity of residents. Drawings, which incorporate these amendments will be reported to Committee as a late item. Noise and light pollution will be dealt with by conditions.

Section 106 Agreement: The Council's Legal Officer has advised that the original Section 106 requirement to provide either a community or retail facility on the site does not preclude, in addition, residential development on the site.

### Conclusion

The site has been allocated for shopping facilities in the Hinckley and Bosworth Local Plan. The proposed development will provide 3 retail units and 9 apartments in a scheme, which is in scale with nearby residential properties and complies with the Council's parking standards.

**RECOMMENDATION: - That following 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 play and open space, the Head of Culture and Development be granted powers to issue Planning Permission subject to the conditions below. Failure to complete the agreement by 23rd January 2007 may result in the application being refused :-**

**SUMMARY OF DECISION** - The proposal is in conformity with Policy/Policies BE1, T5, RET9, REC2, REC3 and IMP1 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 This permission relates to the application as revised by amended plans 06-55.1C - 6C received by the Local Planning Authority on 5 December 06.
- 3 Representative samples of the types and colours of all materials to be used on the external elevations of the development shall be deposited with and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4 Notwithstanding the submitted drawings and before development commences, detailed sections of the curved corner structure and canopy shall be submitted to the Local Planning Authority for written approval. The development shall be implemented in accordance with the approved details.
- 5 Notwithstanding the submitted drawings, a scheme of hard and soft landscaping shall be submitted to and approved by the Local Planning Authority before development commences. It shall, as part of a detailed schedule, indicate the treatment and levels proposed for all ground surfaces, including parking areas and boundary details, including gates, walls and fences, as well as the disposition of all proposed trees, shrubs and bushes. These details shall also include the following: species of tree, shrub and bush, trunk diameter, height of tree, and a natural wildlife habitat and management plan unless otherwise agreed in writing with the Local Planning Authority.

- 6 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.
- 7 The development hereby permitted shall not commence until drainage works for the disposal of both surface water and foul sewage have been carried out in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 8 No development shall take place until a scheme for ventilation of the premises, which shall include installation method, maintenance and management has been submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be implemented in accordance with the details before the premises are first into use for the development hereby approved and maintained in use thereafter.
- 9 The development shall not begin until a scheme for protecting the proposed dwellings from noise from the retail units have 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 is first occupied. The noise assessment will need to consider hours of operation, deliveries, air conditioning etc of the retail units.
- 10 Details of any external lighting on the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the local Planning Authority gives its written consent to the variation.
- 11 Details of the boundary treatment to be implemented prior to first use of the premises and thereafter maintained
- 12 Notwithstanding the submitted drawings, details of the improvements to the access road which shall include a 1.8 metre wide footway shall be submitted for written approval by the local Planning Authority. The details shall be implemented before the first dwelling is occupied.
- 13 The car parking area shall be laid, marked out and provided before the development hereby approved is first brought into use. The car parking spaces shall be retained at all times thereafter.
- 14 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 contribution as required in accordance with policies 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 by the Local Planning Authority.

**Reasons :-**

- 1 To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
- 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 ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure the work is carried out within a reasonable period and thereafter maintained
- 7-10 To protect the appearance of the area, the environment and local residents from nuisance from artificial light. BE1
- 11 In the interests of road safety to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 12 In the interests of road safety to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 13 In the interests of road safety to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 14 To ensure the provision of public open space to accord with policies REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan.

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.

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

**Item:** 03

**Reference:** 06/01201/FUL

**Applicant:** David Wilson Homes (East Midlands)

**Location:** Land Off Candle Lane Earl Shilton Leicestershire

**Proposal:** DEMOLITION OF EXISTING DWELLING AND ERECTION OF 47 DWELLINGS WITH ASSOCIATED PARKING AND ACCESS

**Introduction:-**

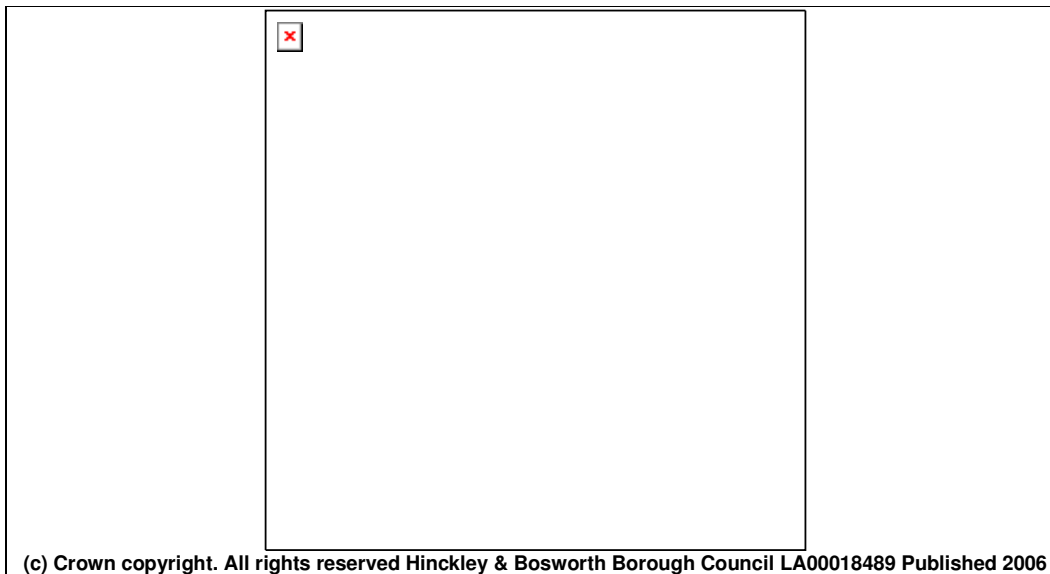
This is a full planning application for the demolition of an existing dwelling and the residential development of a 1.73 hectares site in Earl Shilton. The site is currently a large landscaped garden to two dwellings and is bounded by existing residential development with a residential care home to the north. The ground level falls considerably from north to south and is elevated in relation to the existing residential development to the west. The existing character and appearance of the site is derived from the landscape features and is dominated by a substantial number of mature trees, many of which are subject to a Tree Preservation Order. The proposal comprises 47 detached, semi-detached and terraced, two, and two and a half storey properties, including apartments, arranged in three main areas around a series of public open spaces. Access to the site is via Candle Lane to the east, with the exception of one plot that has access from High Street/Ivydene Close.

The design and access statement submitted with the application confirms that the proposed layout has been informed by the existing constraints, including surrounding residential properties, the presence of extensive areas of mature trees and a sewer easement to the southern part of the site. An arboricultural survey and impact assessment has also been submitted in support of the application, which identifies the most important trees and demonstrates how the proposed development seeks to retain a majority of them whilst allowing a sympathetic development of the other parts of the site. The retention of the majority of the mature trees and hedges on the boundary of the site together with additional landscaping where necessary will contribute to the enclosed character of the site but also link the proposed public open spaces with existing public open space to the south to help to integrate the proposed development into surrounding residential areas.

**History:-**

95/00093/FUL	Erection of 16 Houses	Refused Appeal Dismissed	18/10/95
89/1082/4	Residential Development	Withdrawn	10/10/89
89/0498/4	Residential Development	Withdrawn	10/10/89
87/0586/4	Layout of Roads and Sewers for Proposed Residential Development	Approved	28/07/87
80/1020/4	Residential Development (Outline)	Approved	02/09/80





### **Consultations:-**

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

Head of Health and Environment  
Severn Trent Water Limited  
Council's Land Drainage Consultant  
Director of Environment and Heritage Services (Archaeology).

The Environment Agency object to the application on the grounds that no Flood Risk Assessment has been submitted and the proposed development, although outside the floodplain, may present a flood risk due to the size of the area involved. The applicant has indicated that this issue will be addressed and further details will be reported as a late item to the agenda.

Director of Environment and Heritage Services (Rights of Way) highlights the presence of an existing public footpath T91 that crosses the site. It is recognised that the footpath is currently inaccessible to the public and that an alternative adopted public footpath exists outside the south eastern boundary of the site. It is recommended that the developer submit an application to extinguish the section of the footpath that crosses the site before development commences and that simultaneously the Borough Council initiate extinguishment of the footpath that crosses the existing residential development to the north east (Cottage Gardens).

The Ramblers Association require confirmation of the current status of footpath T91 that crosses the site and the existence of alternative public footpaths.

Leicestershire County Council (Developer Contributions) require financial contributions towards Civic Amenity Site Infrastructure and Library Facilities, and suggest that a commuted sum be required for future long-term management and maintenance of the numerous existing trees on the site if they are not to be privately managed and maintained.

Director of Highways, Transportation and Waste Management (Highways) requires the submission of a Traffic Impact Assessment before making formal recommendations. At the time of writing this report the applicants were still in the process of producing this assessment and therefore highway recommendations will be reported as a late item to the agenda.

The Council's Arboricultural Consultant comments that there has been some deterioration in the quality of the trees on the site in recent years due to a lack of maintenance and certain groups of trees currently within zones of protection have reached the end of their safe and useful existence. The Arboricultural Survey and Impact Assessment are comprehensive and constructive. The development proposals envisage the retention of the most important groups of trees, particularly the central group of Pines. Some of the proposed dwellings are in close proximity to some mature specimens. The future ownership and management of the retained trees will need to be addressed.

The Borough Council's Green Spaces Manager recommends financial contributions towards the provision and maintenance of public play and open space. Further, more specific comments are provided on the Arboricultural Survey and Impact Assessment and recommendations are made regarding replanting of trees to replace those lost as a result of the development.

Director of Environment and Heritage Services (Ecology) comments that the site has features of significant value to the wildlife in the area and provides a haven in a largely built up area. It is recommended that existing native trees and shrubs be retained with additional planting to replace any removed should development proceed. It is also recommended that a landscape and wildlife management plan be required along with full habitat and protected species surveys. The applicant has now submitted a habitat survey, which has been forwarded to the County Council for further comments. Any response will be reported as a late item.

Leicestershire Constabulary (Crime Reduction Officer) objects to the application as the perimeter to the site needs to be defined and secured, existing mature landscaping on the site reduces the possibility of natural surveillance and the areas of public open space allow access to the rear of buildings which is not overlooked.

Primary Care Trust require a financial contribution towards the provision and/or improvement of health care facilities.

No response has been received at the time of writing this report from Earl Shilton Town Council.

Press and Site Notices posted, Neighbours notified, 17 letters of objection received raising the following issues/concerns:-

- i) previous refusal for residential development and dismissed appeal on site
- ii) loss of historic gardens
- iii) loss of natural wildlife habitat/haven and trees
- iv) presence of protected species on site
- v) proximity of mature trees to development
- vi) houses not in keeping with surrounding development
- vii) differences in ground levels
- viii) detrimental to amenity
- ix) overlooking
- x) impact on existing infrastructure
- xi) impact on existing foul sewer system
- xii) highway safety issues
- xiii) increase in traffic, congestion and pollution
- xiv) existing public footpath crosses the site
- xv) insufficient parking within the site
- xvi) danger and loss of amenity from construction traffic
- xvii) loss of security and privacy
- xviii) land ownership issues
- xix) too much new housing in vicinity

- xx) decrease in property values
- xxi) lack of employment opportunities
- xxii) increase in anti-social behaviour in vicinity.

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

Planning Policy Guidance 3 (PPG3) 'Housing' promotes good design in new housing developments in order to create attractive, high quality living environments in which people will choose to live. One of the key principles of PPG3 is to maximise the use of urban land and to achieve high density but with imaginative designs and layouts, making efficient use of land without compromising the quality of the environment. It promotes more sustainable patterns of development linked to public transport.

Planning Policy Guidance Note 13 'Transport' encourages new development to be sustainable, located so as to minimise the length and number of motorised trips made by the private car. Alternative modes of transport including walking, cycling, bus and rail should be encouraged.

### Structure Plan Policies

Earl Shilton is designated as a Main Town within the adopted Leicestershire, Leicester and Rutland Structure Plan 1996-2016. Strategy Policy 1 emphasises the need to make optimum use of the available urban capacity for development in the existing built up areas.

Strategy Policy 2B states that in considering the suitability of land for development the following criteria will also be taken into account: this includes accessibility to non-car modes of transport; actual and potential capacity for transport, utilities and social infrastructure; physical constraints; impact on natural resources and environmental assets; cost of development; and contribution towards the local community.

Strategy Policy 10 encourages the promotion of good design in development schemes. These require that the environment is conserved or enhanced; that there is realistic choice of transport or made available; that housing development takes place at a high density; and that development has regard to the implications of traffic generation, parking standards, pedestrians and cyclists.

Strategy Policy 11 states that developers should meet the requirements for, and costs of, relevant infrastructure and facilities and other resources required to support the development.

Environment Policy 2 states that important areas of open space and green linkages within built up areas will be identified, protected and enhanced.

Environment Policy 3 states that measures will be taken through development opportunities to protect, maintain and enhance biodiversity and manage sites of ecological importance and protected species and their habitats. Where development is allowed which could adversely affect a site or habitat of ecological importance, or a protected species, conditions should be imposed to minimise disturbance and conserve and manage its ecological interest as far as possible, or where damage is unavoidable, provide new or replacement habitats.

Housing Policy 5 seeks to achieve a type and design to achieve as high a net density as possible taking account of proximity and accessibility to centres, the provision of a mix of housing types, good principles of design and layout, green space and landscaping requirements. Housing development on sites of 0.3 hectares or more should attain a density of at least 40 dwellings per hectare within local centres and other locations well served by public transport and accessible to services and facilities.

## Local Plan Policies

Policy RES2 of the Local Plan relates to an appropriate provision of affordable housing on new residential development sites.

Policy RES5 of the Local Plan states that on sites that 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 boundaries of an urban area or rural settlement and the siting, design and layout of the proposal do not conflict with the relevant plan policies.

Policy REC2 of the Local Plan requires the provision of an appropriate level of formal open space within the site 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.

Policy REC3 of the Local Plan requires new development to provide informal outdoor play space for children. However, the supporting text to the Policy states that in assessing the need for such informal space, consideration will be given to the nature and type of housing development proposed as well as its location in relation to existing open space.

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; avoid the loss of open spaces, important gaps in development, vegetation and features which contribute to the quality of the local environment; 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 are in keeping with the character of the area, and ensure an adequate degree of amenity and privacy.

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

Policy T9 of the Local Plan requires development to have regard to facilities for pedestrians and cyclists.

Policy IMP1 seeks to ensure that adequate contributions are made towards the provisions of necessary on-site and off-site infrastructure facilities.

Planning applications will also be assessed against guidance contained in the Council's adopted Supplementary Planning Guidance on New Residential Development, the Council's adopted Supplementary Planning Guidance on Affordable Housing and on that contained in the adopted Play and Open Space Guide.

## **Appraisal:-**

### The Principle

The site is within the settlement boundary of Earl Shilton and is bounded by existing residential properties, therefore, the principle of residential development is normally considered to be acceptable subject to the siting, design and layout not being in conflict with other relevant plan policies.

### Density

Government advice in PPG3 encourages densities of between 30-50 per hectare, especially where sites are within or adjacent to local centres. The proposal site is reasonably well served by public transport and accessible to services and facilities in Earl Shilton. The proposed development of 47 dwellings would result in an overall net density of 27 dwellings per hectare however, when the existing constraints (trees and sewer easements) are removed from the overall developable area, the density increases to a more acceptable 35 dwellings per hectare in accordance with the government guidance and local plan policy. This density is considered to be appropriate for this fairly centrally located site given the existing constraints and its surroundings.

### Layout and Design

The layout of the scheme has been strongly influenced by the existing constraints of the site including large groups of mature trees, sewer easements and the existing surrounding residential development. The proposed dwellings are arranged into three main areas around a series of informal public open spaces, which, enables a majority of the mature trees on the site to be retained whilst providing a high quality environment and amenity for future occupiers with its own distinct, enclosed character. Strong, integrated building groups with parking to side and rear courtyards provides interesting street scenes and avoids a car-dominated development whilst providing an acceptable overall level of parking provision within the site as a whole. The continuous street scenes compliment and contrast with the adjacent open areas to provide a balanced environment. The largest of the open areas at the southern part of the site will link into existing public open space to the south, which, will help to assimilate the development into its surroundings. Leicestershire Constabulary (Crime Reduction Officer) object to the application as the substantial existing landscaping on the areas of open space, which will be easily accessible to the public, reduces natural surveillance and emphasis should be placed on the provision of suitable lighting throughout the development. However, it is considered that the positive contribution that these areas provide in terms of visual amenity and quality of environment override these objections.

The proposed development generally complies with the Council's space and layout standards although there are a few instances where amendments may be required depending upon proposed finished ground levels of certain plots. These have been requested from the applicant to enable more accurate and detailed assessment to be made. The amenity areas in some cases, particularly the affordable housing units, are smaller than recommended in the Council's Supplementary Planning Guidance and some of the proposed apartments do not have defined amenity areas. However, this is not a significant concern when considering the proximity of large areas of informal open space of which there is an over provision on the site as a whole.

The design of the proposed dwellings has been taken from the applicant's extensive range of standard house types but incorporates local architectural styles such as high-pitched roofs, bay windows and open porches. The houses are largely traditional in style to reflect the village location of the site, with the application of detailed features to reflect the vernacular building style of the county.

## Arboricultural Issues and Ecology

The landscaped gardens originally included extensive water features but have been in decline for a number of years and have become largely neglected and overgrown. A significant area of the site will be retained as informal public open space and will provide a significant opportunity to secure the long-term retention and management of a majority of the important mature trees, many of which are subject to a Tree Preservation Order (Land at 'Ivydene' off High Street TPO 1981). This Order relates to individual trees located outside the application site to the north and to two main groups of trees within the site itself. The majority of the protected trees along the south eastern boundary of the site (with the exception of some mature specimens of Ash near to the Candle Lane access) are retained as a large linear group as are the majority of the protected group (mainly Pines) running through the centre of the site, which give the site its character.

Unfortunately, it is inevitable that some trees will be lost as a result of the proposed development, particularly to allow appropriate access to the site from Candle Lane and to provide further access to the northern part of the site through the central group of trees. However, careful thought has gone into providing a layout that provides an acceptable form of development whilst minimising the loss of the most important and valuable trees on the site.

The Arboricultural Survey and Impact Assessment submitted in support of the application identifies a total of 32 trees to be removed to accommodate the proposed layout. Of these, 13 are categorised as requiring removal irrespective of any development proposals due to significant structural defects, irreversible decline or short-term life expectancy. A further 13 are categorised as being of low quality and value or limited long-term potential and only 6 trees are categorised as being of moderate quality and value, whose retention would be desirable if practicable.

A previous application for residential development of part of the application site for 16 dwellings was refused in 1995 on the grounds that the proposals would lead to an unacceptable loss of trees to the detriment of the visual amenity and character of the site. An Appeal against this decision was subsequently dismissed. However, given the relatively small number of trees of any particular quality identified for removal in the current proposals it is not considered that this could be sustained as a reason for refusal of the current application, although it is acknowledged that even lesser specimens contribute to the visual amenity of the site.

The applicant has submitted Habitat Surveys undertaken in October 2005 of the two garden areas that make up the application site. No evidence of protected species was found at that time. However, the report does accept that there are potential bat roosts both in the existing dwelling (Beechome) and its outbuildings and in ivy-covered trees within the site. It recommends that further more detailed surveys are carried out prior to the demolition of any buildings or removal of any trees with roost potential. It is considered that an appropriately worded condition requiring such surveys prior to commencement of works could be attached to any approval of planning permission. The survey also identifies that there is limited potential habitat for Great Crested Newts within the site and whilst no evidence of occupation was found, the survey was not carried out in the optimum time of year for the species. No evidence was found of badgers and the potential for occupation is considered to be limited given the central location and surrounding residential development.

On balance, it is considered that the retention of the large areas of public open space populated by mature trees and hedges to the site boundaries, together with additional planting within the site, will provide an opportunity for the retention of elements of the wildlife currently present, whilst allowing a sensitive development of remainder of the site.

## Drainage

There is an existing sewer easement crossing the southern part of the site, which is to remain as informal public play and open space. The applicant proposes the use of underground on-site surface water flow balancing facilities and is currently in discussion with the Environment Agency regarding their objection to the scheme based on the absence of a Flood Risk Assessment. The applicant has also been requested to ensure that Severn Trent Water Authority have no objection to the siting of Plot 1 adjacent to the existing sewer easement. Any further information regarding the outcome of these issues will be reported as a late item to the agenda.

## Highway Issues

Before making any formal comments the Highway Authority are awaiting the submission of a Traffic Impact Assessment. The applicants are still in the process of providing this at the time of writing this report therefore a more detailed appraisal of highway issues and the impact of the proposed development on existing road infrastructure will be reported as a late item to the agenda.

The use of speed calming measures and block paving within Roads 2 and 3 of the development is intended to suppress vehicle speeds and provide a safe environment for pedestrians and cyclists. Parking standards for the site are considered to be acceptable overall and generally comply with standards required to satisfy policy T5 of the adopted Local Plan.

The proposed development does provide permeability in the form of a link from the existing adopted public footpath to the south eastern boundary through the open space to the southern part of the site.

## Affordable Housing

A draft Section 106 Agreement has been submitted with the application to provide for financial contributions towards local infrastructure and 9 affordable housing units (20 percent), which satisfies policy RES2 of the Local Plan and the Supplementary Guidance on Affordable Housing. Eight of these units will be rented with the remaining 1 unit for shared ownership.

## Financial Contributions

The Highways Authority may require financial contributions towards highway improvement works but at the time of writing this report are unable to confirm this until the results of the awaited Traffic Impact Assessment have been received. Any request for contributions will be reported as a late item.

A financial contribution of £2,660 is required towards the costs of books, materials and other library facilities along with a contribution of £1892 towards improved Civic Amenity Site infrastructure works at Barwell.

There is no requirement for financial contributions towards education facilities as all sectors of education locally currently have spare capacity.

The Primary Care Trust require a financial contribution of £10,791 towards the provision and improvement of health care facilities.

A financial contribution of £106,152 towards the provision and maintenance of public play and open space is required. The site is located approximately 240 metres from Weaver Springs which acts as a neighbourhood park providing equipped children's play and football

pitches. The quality of both equipped childrens play areas and the football facilities are identified within the Green Space Strategy as being in need of improvement. A further sum of £\_\_\_\_\_ is required towards the long-term management and maintenance of the significant number of trees within the application site.

### Conclusion

The site is within the settlement boundary of Earl Shilton, close to the town centre and within a residential area. There is strong opposition to the proposed development, particularly from the occupiers of neighbouring properties. Many are opposed to the loss of trees and wildlife habitat, however, there is no conclusive evidence to suggest that any protected species are resident within the site and it is not defined as an open space or area of special character within the context of the adopted Local Plan. Whilst the gardens that occupy the application site were once a significant feature of the town they have been neglected for a number of years and many of the mature trees on the site, already showing signs of decline, will deteriorate further if their long-term management is not secured.

The proposed development is considered to respect the site constraints and provide a strong form of development in terms of design and layout that is in sympathy with its surroundings and seeks to maximise the use of the site whilst retaining its distinct enclosed character and appearance. It is considered that the provision of large areas of informal public open space, including retention of a majority of the mature trees together with additional planting to replace those lost as a result of the development, will secure the long-term future of these areas as a habitat for wildlife and bring these areas back into the public realm through links to adjacent open spaces.

The proposals are considered to meet the requirements of the relevant policies of the Leicestershire, Leicester and Rutland Structure Plan and the adopted Hinckley and Bosworth Local Plan together with relevant Supplementary Planning Guidance. The proposals are therefore recommended for approval subject to no new significant objections being received prior to 9th January 2007 from outstanding consultees and subject to completion of a Section 106 agreement.

**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 play and open space, libraries, civic amenity, health care and the provision of affordable housing within the site, and subject to no significant additional objections being raised by the end of the consultation period, the Head of Culture and Development be granted powers to issue Planning permission subject to the conditions below. Failure to complete the Agreement by 31st January 2007 may result in the application being refused:-**

**SUMMARY OF DECISION** - The proposal is in conformity with Policy/Policies BE1, RES2, RES5, REC2, REC3, IMP1 and T5 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 This permission relates to the application as revised by amended plan No. S0000/100/01 Rev \_ received by the Local Planning Authority on \_\_\_th January 2007
- 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 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 to E inclusive shall not be carried out on Plots 26 - 30 inclusive unless planning permission for such development has first been granted by the Local Planning Authority.
- 5 The development hereby permitted shall not commence until drainage works for the disposal of both surface water and foul sewage have been carried out in accordance with the details to be submitted to and approved in writing by the Local Planning Authority.
- 6 There are public sewers which cross the site. No building shall be erected or trees planted within 10 metres of the public surface water sewer or within 3 metres of the public combined sewer unless otherwise agreed in writing with the Local Planning Authority.
- 7 No development shall commence on site until the applicant, or their agents or successors in title, has secured the implementation of a programme of historic building and garden recording. This work shall be conducted in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority.
- 8 No development approved by this permission shall be commenced until such time as a scheme for the monitoring of landfill gas has been submitted to and agreed in writing with the Local Planning Authority. The development and monitoring of landfill gas shall be carried out in accordance with the agreed details.
- 9 Before development commences on site, including site works of any description, the trees indicated to be retained on the approved amended plan No. S0000/100/01 Revision \_\_\_ received by the Local Planning Authority on \_\_\_ January 2007, shall be securely fenced off by protective fencing on a scaffolding framework in accordance with B.S. 5837 erected in a circle around each tree at a radius from the bole of 3 metres or to coincide with the extremity of the canopy of the tree, whichever is greater. Within the areas so fenced off, the existing ground level shall neither be raised nor lowered, (except as may be approved by the Local Planning Authority as part of the development) and no materials, equipment, machinery or temporary buildings or surplus soil shall be placed or stored thereon. If any trenches for services are required in the fenced off areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5 centimetres or more shall be left unsevered.
- 10 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.
- 11 Before development commences full details of the provision to be made for landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 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 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 No development approved by this permission shall be commenced until a further ecological assessment that fully considers the impact on bats and their roosts, and a mitigation plan where necessary, has been submitted to and approved in writing by the Local Planning Authority. No development shall take place except in accordance with the approved details.

**Reasons :-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 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 that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution to accord with policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 6 To maintain essential access for maintenance, repair, renewal and to protect the structural integrity of the public sewerage system.
- 7 To ensure satisfactory historic building and garden recording to accord with policy BE16 of the adopted Hinckley and Bosworth Local Plan.
- 8 To ensure the safe development of the site and to protect amenities of future occupiers of the development to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 9 To ensure that the existing trees on the site are to be retained and protected and in the interests of visual amenity to accord with policies BE1 and NE11 of the adopted Hinckley and Bosworth Local Plan.
- 10 To ensure that the existing trees on the site are to be retained and protected and in the interests of visual amenity to accord with policies BE1 and NE11 of the adopted Hinckley and Bosworth Local Plan.
- 11 To enhance the appearance of the development to accord with policy BE1 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 BE1 of the adopted Hinckley & Bosworth Local Plan.
- 13 To ensure that all communal areas are maintained to the satisfaction of the Local Planning Authority in the interests of visual amenity and public safety to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.

- 14 The ecological assessment submitted with the application did not adequately consider the impact on bats and their roosts, which is required to accord with policy NE8 of the adopted Hinckley and Bosworth Local Plan.

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 It will need to be demonstrated that adequate facility is available for the disposal of surface water.
- 4 Attention is drawn to the fact that this permission does not entitle the applicant to obstruct in any way the footpath which crosses the land to which this application relates. If it is intended to divert or stop the footpath the appropriate legal steps must be taken before development commences.
- 5 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.
- 6 Demolition of the outbuildings requires notification to the Building Control Section of the Local Planning Authority in accordance with Sections 80 and 81 of the Building Act 1984.
- 7 It is the responsibility of the applicant to obtain the necessary approvals and defray the expenses of the appropriate authorities in connection with the removal of any street lamps, signs, posts, bus stops or shelters within the highway boundary which may be required.
- 8 In relation to Condition 6, the applicant may wish to apply to Severn Trent Water Limited to divert the sewer in accordance with Section 185 of the Water Industry Act 1991.

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

**Item:** 04  
**Reference:** 06/01274/CONDIT  
**Applicant:** Mr D Corbett  
**Location:** Cottage Farm 2 Cottage Lane Norton Juxta Twycross Atherstone  
Leicestershire  
**Proposal:** VARIATION OR AMENDMENT OF CONDITIONS 1, 3, 5 AND 6 OF  
PLANNING PERMISSION 06/00863/COU

**Introduction:-**

The application seeks to vary or delete conditions imposed upon planning permission reference 06/00863/COU (for the change of use of agricultural land to the landing and taking off of microlight aircraft). The applicant wishes to vary or delete condition 1, vary conditions 3, 5 and 6 and delete condition 10.

The airstrip is located within a site identified as 'Cottage Farm' and is in an isolated location. The strip of land is at the end of an agricultural field. The site adjoins the district boundary of Hinckley and Bosworth Borough Council and North West Leicestershire District Council (a separate planning application has been submitted to the neighbouring authority, but was been deferred by the Planning Committee on 6th December 2006 because further clarification on outstanding issues are sought from the applicant).

The five conditions as stated on planning permission reference 06/00863/COU the applicant wishes to vary or delete are as follows

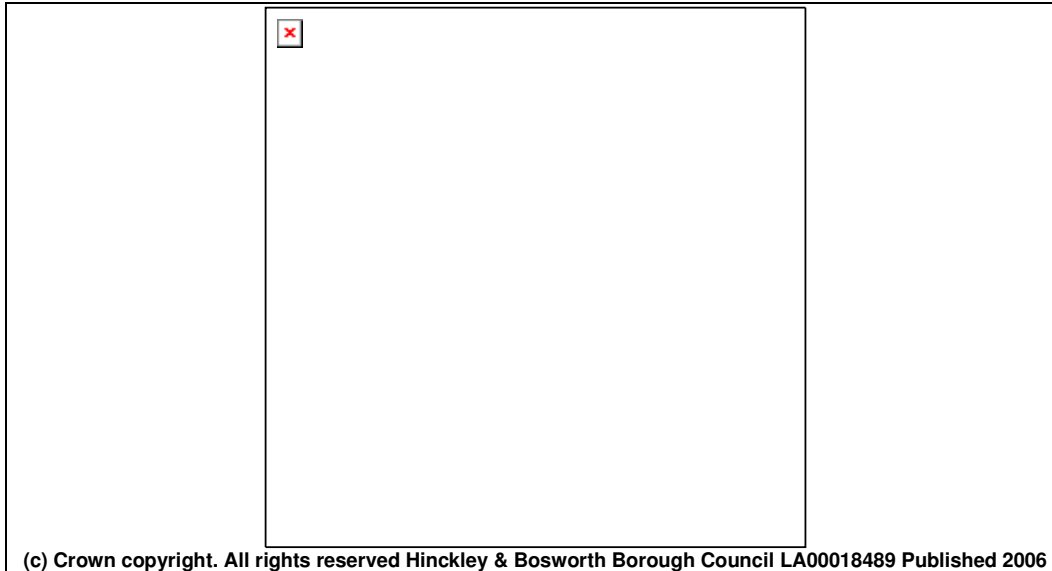
1. The use hereby permitted shall be discontinued and the land restored to its former condition on or before 10th October 2008, in accordance with a scheme of work previously submitted to and approved in writing by the Local Planning Authority.
3. Aircraft movements shall take place only between 09:00 and 18:00 on Monday to Saturdays but not at all on Sundays and Public Holidays, except in an emergency.
5. There shall be a maximum of six (6) take-offs and six (6) landings in any operational day
6. There shall be no circuit flying or touch and go training at any time during the operational day.
10. There shall be no microlight aircraft testing or taxiing on the airstrip at any time.

The applicant states that most local residents have been aware of the activity and there have been few complaints as he has always been aware of the need to respect people's privacy and to keep the noise within the area of the field.

The applicant's agent has submitted reasons as to why he considers that the five conditions must be varied. These reasons are discussed below. The agent has submitted an appeal to the Planning Inspectorate to vary the stated conditions.

**History:-**

06/00863/COU Change of use of agricultural land to the landing and taking off of microlight aircraft Approved 11.10.06 Appeal pending



**Consultations:-**

At the time of writing this report no responses has been received from:-

Director of Highways Transportation and Waste Management  
Head of Health and Environment  
Twycross Parish Council  
Leicestershire Footpath Association  
Neighbours  
Site notice

The Director of Environment and Heritage Services (Rights of Way) has no objections to the variation of conditions

National Air Traffic Services have no objection to the variation of conditions from a safeguarding aspect.

**Development Plan Policies:-**

Central Government Guidance

Guidance on imposing planning conditions is contained within the Department of the Environment Circular 11/95.

Planning Policy Statement 7 'Sustainable Development in Rural Areas' seeks to regulate development in the open countryside in a sustainable manner. The use of the open countryside for tourism and leisure is generally encouraged.

Planning Policy Guidance Note 13 'Transport' states that when Local Planning Authorities consider aviation development consideration should be given to the environmental impacts

of aviation proposals, and it recommends that conditions may be necessary to limit the impacts.

Planning Policy Guidance Note 24 'Planning and Noise' identifies that noise generating development can be a material consideration when determining planning applications, and that Local Planning Authorities should ensure that development does not cause an unacceptable degree of disturbance. PPG24 also states that in assessing applications for aircraft uses planning conditions should be considered in order to ameliorate any possible impacts of noise upon neighbouring land and properties.

#### Development Plan

The site lies within the open countryside as defined in the adopted Hinckley and Bosworth Local Plan.

Policy SP8 of the Leicestershire, Leicester and Rutland Structure Plan (adopted March 2005) states that the countryside will be protected for its own sake.

Policy BE1 of the Local Plan states that planning permission for development proposals will not detract from the general character of the area or the amenities of adjoining residents.

#### **Appraisal:-**

Members may recall that the impact of the development upon the open countryside, and upon nearby residential amenities was considered during the determination of the previous retrospective planning application, and on balance, it was considered that the proposed development would be acceptable subject to conditions. However, the applicant considers that the conditions imposed are unreasonable and, according to his planning agent, not in accordance with government guidance contained within Circular 11/95.

The applicant considers that Condition 1 imposed on planning permission 06/00863/COU is 'unnecessary' because, in his opinion, there are 'other controls imposed by other conditions'. He considers that the condition should be extended to a period of five years, thus allowing the 'flight regime to be fully assessed throughout the five seasons.' The reason for imposing this condition is specific to monitoring the use of the land for the taking off and landing of microlight aircraft, and its potential impact upon nearby residential dwellings.

Whilst it is recognised that the nearest dwelling is approximately 650m northwest of the airstrip, a period of two years is acceptable and reasonable to assess further impact and so the expiry condition should neither be deleted or amended. To amend the period to five years as requested by the applicant would be unreasonable. The activity has continued since around October 2005 when Officer's received complaints about the amount of intensified use of the airstrip. Upon expiry of the permission the applicant will have an opportunity to apply for a permanent use.

The applicant considers that Condition 3 should be amended to permit flying from 08:00 to sunset, and should be unrestricted in terms of days of operation as the number of flights and the type of flying associated with the airfield is controlled by other conditions.

He also states that microlight activity is a leisure pursuit and similar to many other leisure activities, most 'flying takes place at weekends, in the evening and on public holidays...' He also states that flying is controlled by weather conditions for example, microlight flying does not take place if the wind speed exceeds 10knots; if it is cloudy or in poor visibility conditions. He also states that the condition is restrictive, and unreasonable, because in emergencies the use of the strip could not be used.

The reason for imposing condition 3 is to ensure that the use of the airstrip does not become a source of annoyance to nearby residents, thus mitigating any potential impact. By varying this condition from its current wording to the one proposed in this application would be unreasonable and may have a detrimental impact upon the residential amenities of nearby residents within the village and outlying areas.

The reasoning behind the applicant's concerns relating to planning condition 5 appears to relate to the consultation response by the Borough Council's Head of Health and Environment. Members may recall that the consultation response was that he recommended three conditions. Firstly, that the landing strip shall be used by microlight aircraft only, and no other type of aircraft shall be permitted to land or take off from it; secondly that there shall be no more than 30 microlight aircraft movements from the landing strip in any 24 hour period and finally, that the applicant shall provide users of the landing strip with approach and take off routes to avoid over flying nearby properties wherever possible.

In the light of local interest and complaints received it is considered that amending condition 5 (thus permitting 30 movements or unrestricted movements) is unreasonable and may lead to significant impact upon nearby residential amenities. Therefore, the reason as stated for condition 5, in that the condition is required in order to ensure that the use of the airstrip does not become a source of annoyance, conforms to policy BE1 of the adopted Local Plan.

However, there may be a need to agree alternative take-off and landings for example for charity events, which the applicant may wish to hold, and these could be agreed prior to such events taking place.

The applicant points out that condition 6 is unreasonable and may not be enforceable, thus not satisfying Circular 11/95 guidance. It could be argued that circuit flying was necessary on a particular day due to safety requirements.

However, it is considered that 'circuit flying and touch and go training' is more akin to a training school or such facility, and considering the imposition of other planning conditions, it is suggested that condition 6 is replaced by condition 9 of this permission, which will restrict any training activities on the land.

The applicant considers condition 10 to be unreasonable, and thus not satisfying Circular 11/95 criteria. He states that 'before any microlight can be flown the engine has to be tested' for safety requirements. Similarly, a Microlight has to taxi to the appropriate end of the take off strip to 'ensure it takes off into the wind' and vice-versa for landing. The agent states that the condition has been imposed without considering the actual activity of Microlighting itself. It is also likely that 'taxiing' is very limited in time and duration. Following the applicant's representations on this condition it is unlikely that this limited activity can be significant enough to be detrimental to the amenities of nearby residential properties.

In view of the above comments and appraisal, the conditions have been reviewed, and amended accordingly.

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

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

- 1 The use hereby permitted shall be discontinued and the land restored to its former condition on or before 10th October 2008 in accordance with a scheme of work previously submitted to and approved in writing by the Local Planning Authority.
- 2 This permission shall operate solely for the benefit of the applicant and shall not run with the land.
- 3 Aircraft movements shall take place only between 09:00 and 18:00 on Monday to Saturdays but not at all on Sundays and Public Holidays, except in an emergency.
- 4 The use hereby permitted shall be for the taking off and landing of microlight aircraft purposes only and no business or commercial uses or training facilities shall be carried out on the airstrip, without prior written approval from the Local Planning Authority.
- 5 There shall be a maximum of six (6) take-offs and six (6) landings in any operational day, unless otherwise agreed in writing by the Local Planning Authority.
- 6 Within one month of this decision a taking off and landing procedure details shall be submitted to, and approved in writing by, the Local Planning Authority, and implemented thereafter in accordance with approved details.
- 7 All microlight aircraft movements are to be kept in a 'movement log' available for inspection by the Local Planning Authority.
- 8 Within one month of this approval, details of any fuel storage for the use of the microlight aircraft shall be submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be implemented within one month of the approval letter and maintained as such.
- 9 There shall be no Microlight Club or training school or any business or commercial uses operating from the site at any time.

**Reasons :-**

- 1 The use of the land as airstrip requires monitoring as to its potential impact upon nearby residential dwellings.
- 2 For the avoidance of doubt.
- 3 To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.
- 4 For the avoidance of doubt.
- 5 To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.
- 6 In order that the effect of the development upon the amenities' enjoyed by neighbouring properties can be assessed during this period and that any further application can be decided having regard to this assessment.



- 7 For the avoidance of doubt.
- 8 For the avoidance of doubt.
- 9 The uncontrolled use of the land for Microlight aircraft landing and taking off can be a source of nuisance and annoyance to nearby residential properties. The use of the land for training or as a Microlight Club site can be detrimental to the countryside, contrary to policy BE1 and NE5 of the Hinckley and Bosworth Local Plan (adopted February 2001).

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 The applicant is advised that Condition 1 requires the submission of a scheme of work to the Local Planning Authority for its approval.

**Contact Officer:-** Mr Ahsan Ghafoor Ext 5775

**Item:** 05

**Reference:** 06/01315/FUL

**Applicant:** Mrs P Davenport

**Location:** Land North of High Walls 6 Mill Lane Witherley Leicestershire

**Proposal:** CONVERSION OF STABLES TO DWELLING AND ALTERATIONS TO OUTBUILDING TO FORM CARPORT, STABLES AND STORE

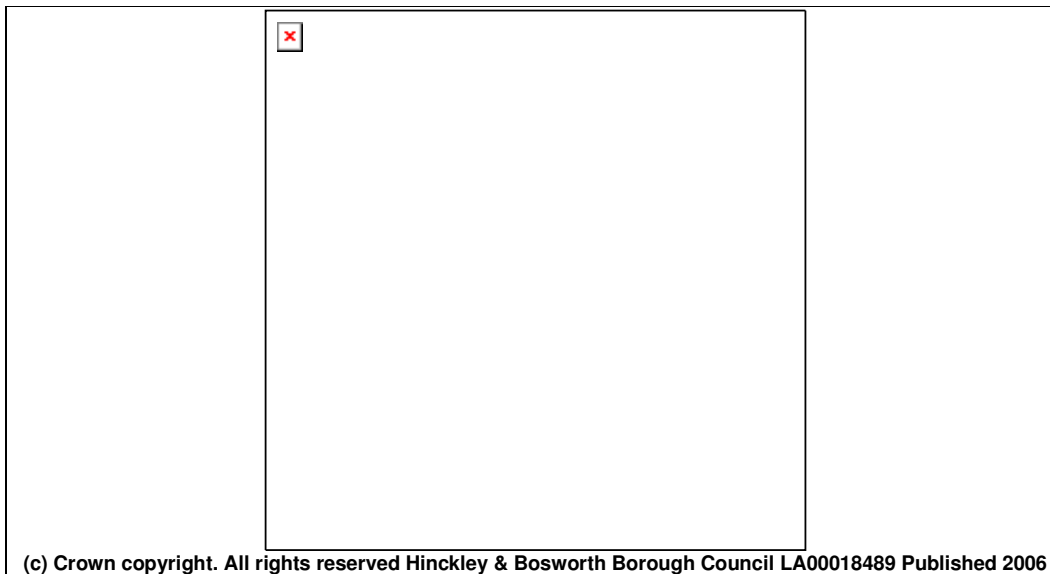
**Introduction:-**

This is a full application for the conversion of existing stables to form a dwelling and conversion of the associated outbuilding to form a car port and attached stables. The site is located to the east of Mill Lane. To the west and to the north of the site are residential properties, and to the south and east is agricultural land.

The applicant has submitted a design and access statement which includes justification why the property cannot be converted into industrial. The applicant has submitted a Structural Inspection Report that concludes that the barns are generally in a good condition apart from the expected weather deterioration and their agricultural use. The proposed buildings are to be located around a central courtyard to serve the dwelling and the associated outbuilding. The garage will be single storey and the dwelling will be single storey fronting Mill Lane, rising to two storey at the rear.

**History:-**

None relevant.



### **Consultations:-**

No objections have been received from:-

Parish Council  
Neighbours

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

Borough Council's Land Drainage Consultant  
Head of Health and Environment  
Director of Highways, Transportation and Waste Management (Highways)

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

#### Government Policy

Planning Policy Statement 7 supports the reuse of appropriately located and suitably constructed existing buildings in the countryside. The countryside should be protected and where possible, enhanced. Farm diversification should not result in excessive expansion and encroachment of buildings into the countryside.

#### Local Plan Policy

The site is located within the open countryside, adjacent to Witherley Conservation Area as identified in the adopted Hinckley & Bosworth Local Plan.

Policy NE5 stipulates that the countryside will be protected for its own sake; however, it also states that the re-use of existing buildings within the countryside may be acceptable in principle, subject to there being no adverse affect on the appearance or character of the landscape and it is effectively screened by landscaping or other methods.

Policy BE7 focuses on development in conservation areas. It states that such development will need to preserve or enhance their special character or appearance of the buildings and the conservation area and protect views into and out of the Conservation Area.

Policy BE20 focuses on the re-use and adaptation of rural buildings, including those for residential purposes. It states that such proposals will be granted provided there is no

adverse effect on the landscape, highway safety, protected wildlife habitats, or to the design, character and appearance and setting of the building; the building should be capable of conversion without significant alterations, extensions or rebuilding; and the amenities of nearby residents not adversely affected.

Policy BE1 reiterates of the above criteria, whilst policy T5 seeks to apply the County Council highway standards and parking targets when considering new development. This states that adequate justification is required for a non-commercial conversion of rural buildings.

Further advice is given in the adopted Local Planning Authority's Supplementary Planning Guidance on Conversion of Rural Buildings (June 2004).

## **Appraisal:-**

### Design

The application involves some minor changes to the barn building. The majority of the existing openings are being retained and a minimal number of new openings are being created, which are in keeping with the other doors and windows. The outbuilding which is being converted to a stable block and garage is to be increased in height by removing the existing roof and adding the wall height. These alterations will add to the character of the building and enhance the overall appearance of the application site and Conservation Area.

The conversion and alterations are in keeping with the general character of the existing buildings and are unlikely to have a detrimental impact on the visual amenity of the area.

### Principle

Local Plan Policy seeks to encourage either employment, recreation or tourism uses in the first instance, and only if it proves that there is no interest in the barn for these uses then residential may be looked upon favourably. Both Policy BE20 and the adopted Supplementary Planning Guidance on conversion of rural buildings state that planning permission will only be granted for the re-use and adaptation of a rural building if it can be converted without significant extensions that alter the form of the building so as to detract from its existing character and appearance.

It has already been assessed that the barns can be converted without significantly altering the form of the barns. As well as the submitted structural survey outlining that the barns are generally suitable for conversion with any works to be undertaken with due care and appropriate support to prevent collapse or damage to the structure.

The applicant has submitted justification why the buildings are not suitable for employment use. The current width and construction of the access drive is inadequate and any improvements to the access would have a detrimental impact to the character and appearance of the conservation area. The conversion of the buildings to employment would be detrimental to the occupiers of neighbouring dwellings in terms of general noise and disturbance and also a potential increase in vehicular movements associated with an employment use as the application site is surrounded by residential dwellings.

### Highways

The new dwelling will be accessed through an existing gate, located off Mill Lane. The Highway Authority have raised no objections to the application other than standard conditions relating to the new vehicular access and off-street parking. Also, the access is to be constructed to allow for disabled access, and it caters for turning space on site, located in front of the proposed car port. The existing access in to the site will also be altered

slightly by the continuation of the existing boundary wall, which in turn will provide screening to the proposed dwelling and neighbouring properties opposite, as to minimise the impact in accordance with Policy BE1 and BE7.

#### Impact on Open Countryside

The site lies within the open countryside where policy seeks to protect the countryside for its own sake. The policy allows for the change of use, reuse and extension of existing buildings providing the development would not have an adverse effect on the appearance or character of the landscape and it is in keeping with the scale and character of existing buildings and the general surroundings. Furthermore, the Supplementary Planning Guidance pays particular regard to the setting of converted buildings, requiring the appearance to retain their rural character and for the domestic appearance to be concealed from general view.

It is considered that this site is not very prominent, even though the buildings can be viewed from the adjacent fields. The proposal would not have an adverse effect on the appearance of the landscape. The extensions proposed are in keeping with the scale and character of the existing buildings. If a building merits retention then it must be capable of conversion to a new use in its own right.' The scheme meets this criteria.

#### Financial Contribution

A financial contribution of £1,900 towards Play and Open Space would be required as there is a public open space located 160m away

#### Conclusion

Overall, the justification for the conversion of the property to residential is adequate and the minimal additions of new openings respects the scale and character of the existing property and the Conservation Area.

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

**SUMMARY OF DECISION** - The proposal is in conformity with Policy/Policies BE1, BE7, BE20, NE5, REC2, REC3 and T5 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 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling 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.

- 3 Notwithstanding the submitted drawings, details of the proposed windows and doors shall be submitted to and agreed in writing by the Local Planning Authority before development commences. The agreed scheme shall be implemented in accordance with the approved details.
- 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 shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.
- 5 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 5 metres behind the highway boundary and shall be hung so as to open inwards only.
- 6 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.
- 7 Before first occupation of the dwelling 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.
- 8 Before first occupation of any dwelling hereby approved, 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.
- 9 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.
- 10 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 which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.
- 11 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.
- 12 No horse manure or other waste materials shall be burnt on the site at any time.

- 13 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) proposed finished levels or contours
  - (ii) means of enclosure
  - (iii) car parking layouts
  - (iv) other vehicle and pedestrian access and circulation areas.
  - (v) hard surfacing materials
  - (vi) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.)
  - (vii) proposed and existing functional services above and below ground (e.g. drainage, pipelines, manholes, supports, etc.)
  - (viii) retained historic landscape features and proposals for restoration, where relevant.
  - (ix) planting plans
  - (x) written specifications
  - (xi) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
  - (xii) implementation programme.
- 14 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 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 3 To ensure a satisfactory external appearance to accord with Policies BE1 and BE7 of the adopted Hinckley and Bosworth Local Plan.
- 4 To protect the character and appearance of the conversion and the visual amenities of the locality.
- 5 To enable a vehicle to stand clear of the highway whilst the gates are opened.
- 6 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 7 To ensure that vehicles may enter and leave the site in a forward direction in the interests of road safety to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 8 To ensure that adequate off-street parking facilities are available to accord with policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 9 To ensure the provision of public open space to accord with policies REC2 and REC3 of the adopted Hinckley and Bosworth Local Plan.
- 10&11 To safeguard the health of future occupiers of the residential properties to accord with BE1 of the Hinckley and Bosworth Local Plan.

- 12 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 13 To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 14 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 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 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 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.
- 5 It will need to be demonstrated that adequate facility is available for the disposal of surface water.
- 6 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)
- 7 Condition 9 refers to public open space. In accordance with the adopted Hinckley and Bosworth Local Plan and the approved Play and Open Space Guide public open space should be provided either on site, or a contribution made towards off-site provision. In this instance a contribution of £1,900 is required towards the provision of off-site public open space. This can be provided by a one off payment or secured by the completion of a Legal Agreement under Section 106 of the Town and Country Planning Act 1990.
- 8 The applicant is advised that this permission relates to residential conversion of the existing stables and associated outbuildings and in no way implies permission for any demolition and rebuilding of the existing structure. Care should therefore be taken when carrying out the conversion works.

**Contact Officer:-** Mr D Grocock Ext 5898

**Item:** 06

**Reference:** 06/01356/FUL

**Applicant:** Aldi Stores Ltd

**Location:** Aldi Stores Ltd Watling Street Hinckley Leicestershire LE10 3ED

**Proposal:** DEMOLITION OF EXISTING RESTAURANT AND CREATION OF ADDITIONAL CAR PARKING

**Introduction:-**

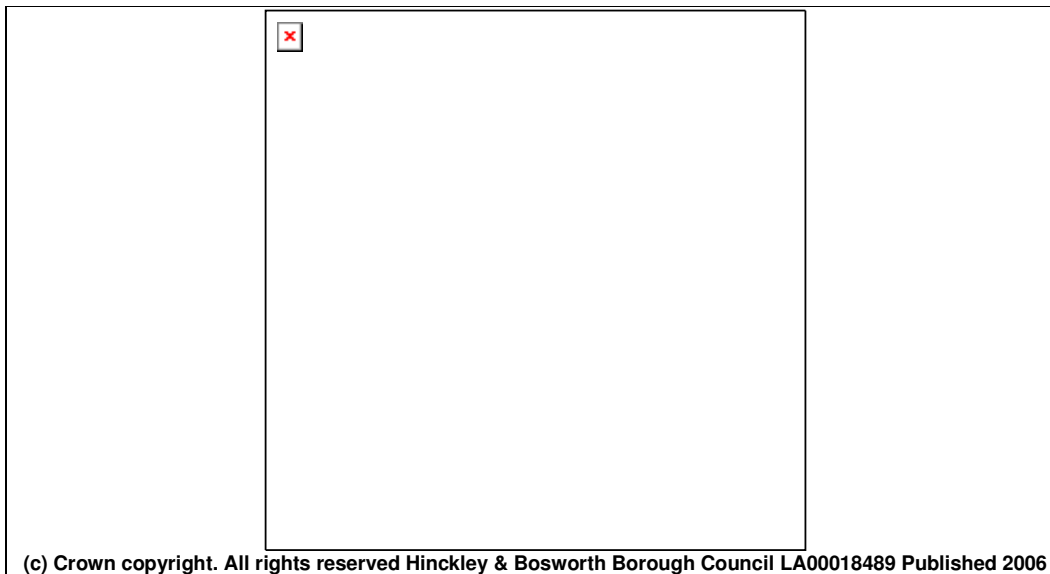
This is a full application for the demolition of the Royal China restaurant and the laying out of additional car parking. The restaurant currently operates under a lease agreement with the applicant Aldi Stores Ltd who own the whole of the site.

The site is adjacent to the A5 Watling Street close to the Leicestershire - Warwickshire border and is within the settlement boundary of Hinckley. To the north, south and west is countryside and to the east fronting onto the A5 is a service station behind which are two residential properties.

The application is a resubmission of a previous scheme that was withdrawn and follows the approval of an extension to the retail store that was granted permission 6th January 2006.

96/00884/CLU	Certificate of existing lawfulness (Retail A1)	Approved 17.12.96
97/00043/FUL	Demolition of existing retail unit erection of food retail store & extension to Chinese restaurant.	Approved 03.04.97
97/00108/FUL	Demolition of storage building, erection of shop frontage & extension to storage for Chinese restaurant.	Approved 03.04.97
97/00570/ADV	Illuminated signs	Approved 12.11.97
97/01059/FUL	Erection of external floodlights to car park	Refused 07.01.98
98/00295/FUL	Erection of external floodlights to car park	Refused 27.05.98
98/00597/FUL	Erection of external floodlights to car park	Approved 19.08.98
05/00540/FUL	Extension to retail store	Withdrawn 22.7.05
05/01219/FUL	Extension to retail store	Approved 06.01.06
06/00710/FUL	Demolition of restaurant and laying out car parking	Withdrawn 31.7.06
06/01103/FUL	Demolition of restaurant and laying out car parking	Withdrawn 24.10.06





### **Consultations:-**

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

Director of Highways, Transport and Waste Management.  
Borough Council's Land Drainage Consultant.  
Nuneaton & Bedworth Borough Council  
Health and Safety Executive  
Director of Environment and Heritage Services (Archaeology)  
The Highways Agency

Press notice issued, site notice displayed and neighbours notified. All persons who made representations on previous withdrawn applications have been re-consulted.

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

#### Government Policy

Planning Policy Guidance Note13 Transport states that any development, including the creation of additional car parking facilities, that affects the traffic flow and safety on a Trunk Road will require the applicant to justify the need for such facilities.

#### Structure Plan Policy

Leicestershire, Leicester and Rutland Structure Plan 1996-2016 adopted 7th March 2005 states in Accessibility and Transport Policy 7 :-

"Maximum standards for car parking relating to developments above defined threshold sizes will be specified that accord with the circumstances and objectives of local plan areas. Parking provision above the maximum will only be permitted where the applicant can demonstrate by a Transport Assessment or other appropriate evidence that a higher level of parking is needed."

#### Local Plan Policies

Policy Retail 14 seeks to ensure that planning permission for extensions to existing shops do not have a seriously detrimental effect on the amenities enjoyed by the occupiers of adjoining residential properties; that the proposed extension can be accommodated within

the existing curtilage; will be designed sympathetically and will not result in an intensified use of an access or the creation of a new access.

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 have regard to the safety and security of both individuals and property and not adversely affect the occupiers of neighbouring properties. To which the general public would have access, has regard to the needs of wheelchair users, other people with disabilities, elderly people and those with young children. The proposal should ensure adequate highway visibility for road users and adequate provision for parking and manoeuvring.

Policy T5 refers to Highway standards and parking requirements.

### **Appraisal:-**

The building proposed for demolition is located in a prominent position on what is one of the key gateways (Watling Street) to and through the Borough of Hinckley and Bosworth. Art Deco in style the building is a well-established restaurant. The building however has undergone a series of extensions and alterations that has compromised the integrity of the original design to the extent that in officers opinion the building is now unworthy of retention on purely design grounds. The building has no statutory protection neither is it locally listed.

With the original design compromised, the demolition of the restaurant is in principle acceptable. Many of the concerns raised with this application, and indeed the previous scheme that was withdrawn, are not considered to be material planning considerations. The core issues relating to this application are linked to the sustainability of the development and the previously approved store extension. The applicants do not require a full planning application to merely demolish the building, they could exercise that right at any date in the future. This application has arisen as they wish to replace it with car parking spaces.

The approval to the store extension was subject to a condition negotiated by the Highways Agency that the bus stop facilities serving the site be upgraded. The Highways Agency had raised concerns over the previous withdrawn applications relating to the additional parking created on the site with the loss of the restaurant, but indicated a suitable solution could be negotiated not dissimilar to the previous approval that would improve the sustainability of this out of town location. This application sees the number of parking spaces reduced from the existing 96 spaces to 88 spaces once the store extension is implemented, and is in general accord with the requirements of PPG 13 and the advice from the Highways Agency.

In addition to the bus stop upgrades, this submission includes mother and child parking bays and the installation of retractable security bollards to deter over night parking by HGV vehicles and other problems the neighbouring service station experience in the evenings and weekends. These improvements will benefit the security and safety of the area as a whole, including the two closest residential properties located adjacent to the site, directly behind the service station forecourt.

### Conclusion

Whilst it is appreciated the loss of the restaurant is regrettable, there are no clear planning grounds on which to base a valid refusal subject to the development fulfilling the requirements of the Highways Agency.

**RECOMMENDATION:-The Head of Culture and Development be granted delegated powers to grant planning permission subject to no objections from the Highways Agency and 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 The car parking spaces as indicated on the submitted plan shall not be obstructed and shall thereafter permanently remain available for car parking, unless otherwise agreed in writing by the Local Planning Authority.
- 3 The development hereby permitted shall not begin until such time as the works to improve the bus stop facilities and ancillary works on the A5 Trunk Road ( as indicated on drawing number B/ALDI/HINCKLEY.1/02 unless otherwise agreed in writing by the Local Planning Authority in consultation with the Highways Agency) have been designed in detail, installed and are operational to the written satisfaction of the Highways Agency.
- 4 Before the development hereby permitted is commenced, details of any additional lighting or floodlighting within the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

**Reasons :-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure that adequate car parking facilities will be available to serve the premises to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 3 To promote sustainable travel and ensure that the A5 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 and in the interests of road safety.
- 4 In the interests of road safety and to safeguard the amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 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 applicants attention is drawn to the fact that any additional signage to be erected at the site will need prior approval through an advertisement consent application.

**Contact Officer:-** Mr Simon Cheshire Ext 5762

