

Date: 24 April 2008

To: All Members of the Planning Committee

Mr P Hall (Chairman)

Mr R Mayne (Vice-Chairman)

Mrs M Aldridge

Mr JG Bannister

Mr JC Bown

Mr MB Cartwright

Mr JD Cort

Mr WJ Crooks

Mr DM Gould

Mrs A Hall

Mr DW Inman

Mr CG Joyce

Mr K Nichols

Mr LJP O'Shea

Mrs J Richards

Mr BE Sutton

1 vacancy

Copy to all other Members of the Council

(other recipients for information)

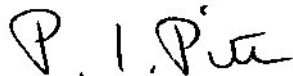
Dear Councillor

There will be a meeting of the **PLANNING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **TUESDAY, 6 MAY 2008** at **6.30pm**, and your attendance is required.

The agenda for the meeting is set out overleaf.

There will be a pre-meeting at 6.00pm in the Members' Room (Annexe) to inform Members of any late items.

Yours sincerely



Pat Pitt (Mrs)
Corporate Governance Officer

PLANNING COMMITTEE

6 MAY 2008

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 8 April 2008 attached marked 'P83'.

3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

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

4. DECLARATIONS OF INTEREST

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

5. QUESTIONS AND PETITIONS

To hear any questions and to receive any petitions in accordance with Council Procedure Rules 10 and 11.

RESOLVED

6. TOWN & COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED

Schedule of planning applications attached marked 'P84' (pages 1 – 55).

RESOLVED

7. THE FUTURE OF BUILDING CONTROL

Report of the Director of Community and Planning Services attached marked 'P85' (pages 56 - 82).

RESOLVED

8. APPEALS LODGED AND DETERMINED

Report of the Director of Community and Planning Services attached marked 'P86' (pages 83 – 86).

RESOLVED

9. APPEALS PROGRESS

Report of the Director of Community and Planning Services attached marked 'P87' (pages 87 – 89).

RESOLVED

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

RESOLVED 11. MATTERS FROM WHICH THE PUBLIC MAY BE EXCLUDED

To consider the passing of a resolution under Section 100A(4) of the Local Government Act 1972, excluding the public from the undermentioned item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 2 and 10 of Part I of Schedule 12A of the Act.

RESOLVED 12. PLANNING ENFORCEMENT ACTION

Report of the Director of Community and Planning Services attached marked 'P88' (pages 90 – 110).

NOTE: AGENDA ITEMS AGAINST WHICH THE WORD "RESOLVED" APPEARS ARE MATTERS WHICH ARE DELEGATED TO THE COMMITTEE FOR A DECISION. OTHER MATTERS ON THIS AGENDA WILL BE THE SUBJECT OF RECOMMENDATIONS TO COUNCIL.

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

PLANNING COMMITTEE

8 APRIL 2008 AT 6.30 PM

PRESENT: MR P HALL - CHAIRMAN
MR R MAYNE - VICE-CHAIRMAN

Mrs M Aldridge, Mr Bannister, Mr Batty, Mr JC Bown, Mr MB Cartwright, Mr WJ Crooks, Mr DM Gould, Mrs A Hall, Mr DW Inman, Mr K Nichols, Mr LJP O'Shea, Mrs J Richards and Mr BE Sutton.

In accordance with Council Procedure Rule 4.4 Mr SL Bray and Ms WA Moore also attended the meeting.

Officers in attendance: Mrs T Darke, Miss L Horton, Mr C Merriman, Miss R Owen, Mr T Prowse, Mr B Whirrity and Mrs M Wykes.

535 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Mr JD Cort and Mr CG Joyce, and the substitution of Mr Batty for Mr Cort was authorised in accordance with Council Procedure Rule 4.3.

536 MINUTES (P76)

On the motion of Mr Bown, seconded by Mr Nichols it was

RESOLVED – the minutes of the meeting held on 11 March 2008 be confirmed and signed by the Chairman.

537 DECLARATIONS OF INTEREST

Mr Mayne declared a personal and prejudicial interest in application 08/00101/COU.

Messrs Bown, Cartwright, Crooks, Nichols and O'Shea declared a personal and prejudicial interest in application 08/00167/FUL, having received hospitality from the applicants. Messrs Bannister and Batty declared a personal, non-prejudicial interest in the same application.

538 SUTTON CHENEY AND SIBSON CONSERVATION AREA STATEMENTS AND MANAGEMENT PLANS (P80)

Members received a report which sought adoption of the Conservation Area Statements and Management Plans for the villages of Sutton Cheney and Sibson.

Ms Moore arrived at 6.40pm.

It was moved by Mr Crooks, seconded by Mrs Aldridge and

RESOLVED – the Conservation Area Statements and Management Plans for the villages of Sutton Cheney and Sibson be adopted.

539 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P77)

The Committee considered a schedule of planning applications, together with a list of late items, and the recommendations of the Director of Community and Planning Services.

It was agreed that the recommendations of the Director of Community and Planning Services contained in the schedule submitted be approved.

(a) 07/01388/FUL – T Jennings Ltd, Highfield Works, John Street, Hinckley – Sketchley Properties Ltd

Although generally in support of the officers recommendation, it was requested that a condition be added asking that heritage lighting be considered for the site.

RESOLVED – 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, or the receipt of a one-off payment to provide financial contributions towards play and open space, libraries, civic amenity facilities and health care, the Director of Community and Planning Services be granted powers to issue planning permission subject to the conditions contained within the report and the following additional condition:

Condition

No development of the site shall commence until a scheme of lighting the public right of way to the east of the site, utilising the Borough Council's cast iron heritage lamp posts and lanterns, has been submitted to and approved in writing by the Local Planning Authority. No more than 10 dwellings shall be occupied on the site until the approved scheme has been implemented and adopted to the satisfaction of the Local Planning Authority

Mr Bray left the meeting at 7.17pm and returned at 7.20pm and left again at 7.24pm returning at 7.26pm. Mr Bray, Ms Moore and Mrs Richards left the meeting at 7.30pm.

Having declared an interest in application 08/00101/COU, Mr Mayne left the meeting at 7.30pm, returning at 7.50pm. Mr Bray also returned at 7.50pm.

(b) 08/00102/FUL – The Bungalow, 47 Hinckley Road, Burbage – Mr G Pearson

Mrs Aldridge left the meeting at 8.01pm and returned at 8.09pm.

Some Members expressed concern with regard to this application. It was proposed by Mr Inman and seconded by Mr Batty that the application be refused on the grounds of overlooking, lack of car parking and garden provisions, overbearing nature and detriment to the amenities of neighbours. Upon being put to the vote, the amendment was LOST.

It was proposed by Mr Cartwright and seconded by Mr Crooks that the application be approved with a condition that the number of windows in the bedroom of the plot nearest to the existing houses be reduced to one to increase the privacy of the neighbours. Upon being put to the vote, the amendment was LOST.

On the motion of Mr Sutton, seconded by Mrs Aldridge, it was

RESOLVED – subject to no further significant objections being raised by the end of the consultation period, the Director of Community and Planning Services be granted powers to issue Planning Permission subject to the conditions contained within the report.

(c) 08/00109/FUL – 73 Southfield Road, Hinckley – Mr D Rayne

Notwithstanding the officers recommendation that the application be approved, it was proposed by Mr Cartwright and seconded by Mr Batty that the application be refused due to its adverse impact. Upon being put to the vote, the amendment was CARRIED. It was therefore

RESOLVED – the application be refused on grounds of its prominence and being a discordant feature that would be highly visible, overbearing and have an adverse effect on the visual amenities of the residents of neighbouring properties.

Messrs Bray and Gould left the meeting at 8.50pm.

Having declared a personal and prejudicial interest in the following application, Messrs Bown, Cartwright, Crooks, Nichols and O’Shea left the meeting at 8.50pm. Mr Gould returned at 8.51pm.

(d) 08/00167/COU – Twycross Zoological Park, Burton Road, Norton Juxta Twycross – Mr John Ray

Attention was drawn to the late items in which the recommendation had been amended to delegate the decision to the Director of Community and Planning Services. It was

RESOLVED – subject to the removal of the Environment Agency’s holding objection, the Director of Community and Planning Services be granted powers to issue Planning Permission subject to the conditions contained within the report. Failure to remove the objection by 24.04.08 will result in refusal of the application.

Messrs Bown, Cartwright, Crooks, Nichols and O’Shea returned at 9.03pm.

- (e) 08/00217/FUL – Land adj Godsons Hill Farm, Station Road, Market Bosworth – Selter Associates

Notwithstanding officers recommendation to approve the application, it was proposed by Mr Inman that the application be refused due to the breach of planning permission. In the absence of a seconder, the amendment was not put to the vote.

RESOLVED – the application be approved with the notes to applicant as stated in the report.

- (f) 08/00268/COU – Hill Top Works, 2 Keats Lane, Earl Shilton – Mr R Church

Members requested that officers ensured that there was a condition included which allowed only fixed windows.

RESOLVED – subject to no new significant objections being received by the end of the consultation period, the Director of Community and planning Services be granted powers to issue Planning Permission subject to the conditions contained within the report and the abovementioned additional condition.

540 PUBLICATION OF PLANNING POLICY STATEMENT 1 SUPPLEMENT: PLANNING & CLIMATE CHANGE (P78)

Members received a report which had been deferred at the previous meeting and which advised on any effects that the publication of Planning Policy Statement 1 supplementary document Planning & Climate Change may have on the Local Planning Authority.

Mr Batty left the meeting at 9.26pm.

At this juncture, having reached 9.30pm it was proposed by Mr Sutton and seconded by Mr Inman that in accordance with Procedure Rule 9 that the meeting be allowed to continue for a further 15 minutes if necessary. The motion was carried.

On returning to discussion on report P78, it was moved by Mr Nichols, seconded by Mr Crooks and

RESOLVED – the report be noted.

541 GOVERNMENT RESPONSE TO CONSULTATION REPLIES: IMPROVING THE APPEAL PROCESS IN THE PLANNING SYSTEM (P79)

The Committee was presented with a report which advised on the Government's response to consultation replies to changes to the appeal process in the planning system. It was explained that one suggestion was the establishment of Local Member Review Bodies which would determine some appeals instead of the Planning Inspectorate. It was moved by Mr Crooks, seconded by Mr Bown and

RESOLVED – the report be noted.

542 APPEALS LODGED AND DETERMINED (P81)

A summary was submitted of appeals lodged and determined since the last meeting. It was moved by Mr Sutton, seconded by Mr Crooks and

RESOLVED – the report be noted.

543 APPEALS – PROGRESS (P82)

A schedule was submitted indicating the stages that various appeals against planning decisions had reached. It was stated that the outcome of the Whitegables appeal would be reported to the next meeting.

RESOLVED – the report be noted.

(The meeting closed at 9.41pm)

REPORT P84

PLANNING COMMITTEE

6 May 2008

RECOMMENDATIONS OF DIRECTOR OF COMMUNITY AND PLANNING SERVICES
ON APPLICATIONS FOR DETERMINATION BY
THE PLANNING COMMITTEE

BACKGROUND PAPERS

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

Item: 01
Reference: 08/00137/COU
Applicant: Mr E Kilpatrick
Location: Burbage Liberal Club 21 Lutterworth Road Burbage Hinckley
Leicestershire
Proposal: CHANGE OF USE OF EXISTING BUILDING FROM SOCIAL CLUB WITH
ATTACHED STEWARDS ACCOMMODATION TO LICENSED
RESTAURANT WITH PRIVATE DWELLING

Introduction:-

The application seeks change of use of the former Liberal Club to a licensed restaurant including use of the existing caretakers house as a private residential dwelling to be occupied separately from the proposed restaurant. The premises are currently vacant.

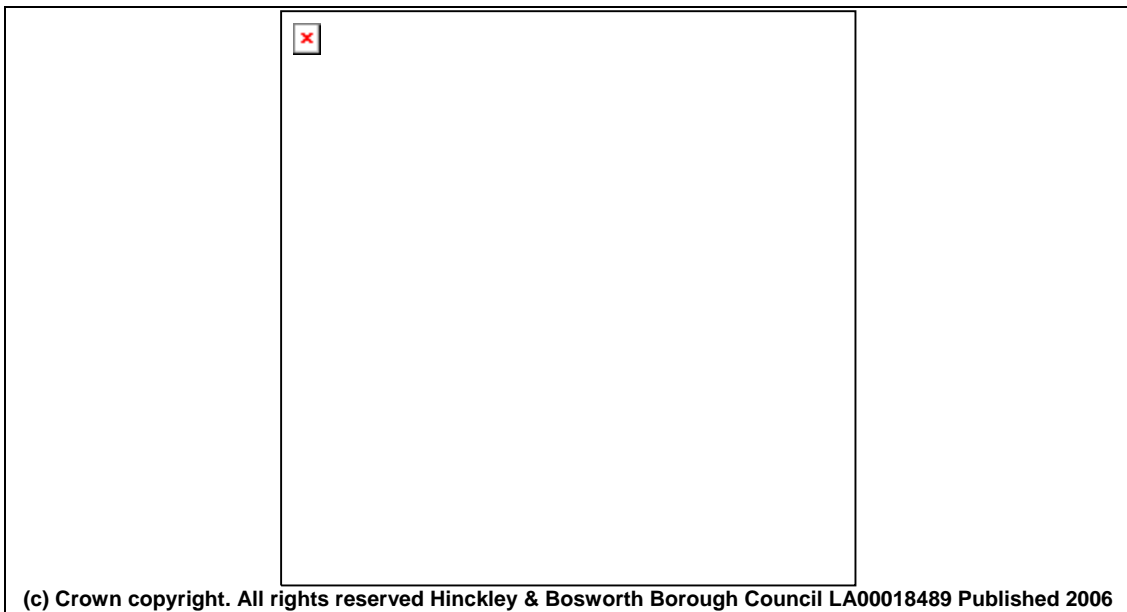
The site is located on the southern side of the 'S' shape bend in the Lutterworth Road between the junctions of Orchard Close and Lychgate Lane. The site consists of a three storey property located on the back edge of the footpath on the west side of the site, which then drops to a two storey element, with single storey extensions adjacent to the parking area. Parking is provided to the west of the application site, which provides 16 spaces for the restaurant and two for the proposed dwelling. The parking utilises the existing access of the site. There are no external changes proposed as part of this application.

The dwelling is located at the southwestern corner of the building adjacent to neighbouring residential properties on Lutterworth Road. Due to its previous use as living accommodation no physical changes are proposed.

A design and access statement was submitted with the application, which considered the location of the site in the context of the surrounding development and the public highway. The statement clarifies the proposal providing background information on the scheme.

History:-

85/00902/4	Erection of porch and internal alterations	Approved	29.10.85
78/01189/4A	Erection of illuminated box sign	Approved	11.08.78



Consultations:-

No objection has been received from:-

Central Networks
Burbage Parish Council.

No objection subject to conditions have been received from:-

Director of Highways, Transportation and Waste Management (highways)
Head of Community Services (Pollution).

2 neighbour letters and a petition containing 20 signatures, has been received raising the following concerns:-

- a) No objection providing adequate parking is provided and pollution caused by noise and smell are adequately managed. Would object to a take-away outlet was approved.
- b) Has Burbage Parish council been consulted?
- c) Under supply of parking spaces on an already over parked road will result in increase congestion and blocking of peoples driveways.
- d) Access adjacent to a busy bend will increase the risk of traffic accidents.
- e) The current unsightly roof tiles should be replaced with slate or clay to significantly improve the character of the area.
- f) Signage or lighting for the development should be kept to a minimum.
- g) The plans on the web site do not provide sufficient detail regarding the proposed use of the rooms and conditions were imposed by the licensing agreement, which should be adhered to.
- h) No details are proposed of the extract or any air conditioning equipment. How are smells to be dealt with.
- i) Where and when will deliveries be made?
- j) Where will food waste be stored and how often will it be collected?
- k) Impact on other local businesses.
- l) The proposed dwelling could be used as a house in multiple occupation for the workers of the restaurant.

Development Plan Policies:-

Central Government Guidance

Planning Policy Statement (PPS)1: (Delivering Sustainable Development) sets out the core principles of the planning system and how it can shape the places in which we live with emphasis on sustainable development. It also outlines how the planning system can protect neighbours by mitigating the impact of development.

Local Plan Policy

The site falls within the Burbage settlement boundary as defined within the adopted Hinckley and Bosworth Local Plan.

Policy BE1 (design and siting of development) seeks to safeguard and enhance the existing environment, including protecting the amenities of neighbouring residents.

Policy T5 (highway design and vehicle parking standards) ensures developments are provided with adequate parking and would not detrimentally affect highway safety.

Other Material Policy Guidance

Burbage Village Design Statement gives a general insight into the character of Burbage highlighting characteristics that should be retained. There is no reference to the liberal club.

Appraisal:-

The main considerations with regards to this application are the impact on the amenities of the neighbouring residents and the safety of the users of the public highway.

Principle of the development

The principle of the change of use to a restaurant is considered acceptable in this location. The site is within the village centre of Burbage close to public transport routes. The location and re-use of the existing building is deemed to comply with government guidance on creating sustainable communities.

The site lies within the Burbage Settlement Boundary and therefore a dwelling in this location is considered acceptable.

Highways

The building has been used as a social club for a number of years with people congregating in the evening to use the facilities. The change of use to a restaurant would involve a similar pattern of use with the main trade being during the evenings and at the weekend. Therefore it is not possible to demonstrate that there would be significant change in the vehicle movements to and from the site and not considered reasonable to refuse on highway grounds.

Concerns have been received about the parking problems in the area and that this development would exacerbate this further. The proposal is considered to have sufficient parking spaces within the application site. The existing parking problems in the area and reported illegal parking should be controlled through highway regulations. The application proposes to use the existing access.

Pollution

There is potential for some restaurants to cause annoyance to neighbouring properties by virtue of the cooking smells escaping and noise of people coming and going. Details have been submitted showing how the internal layout could operate including an indication of the where the ducting could discharge to. The agent has confirmed that internal ducting can be

employed to discharge smells from the kitchen to where it would result in the least effect to neighbouring properties. The Council's Environmental Health raises no objection to the proposal subject to a condition being imposed requesting details of any proposed extraction equipment prior to the use being implemented.

Objections have been received on the basis of a take-away business operating from the building. Planning permission would be required for a take-away and should any application be submitted, it would be assessed on its own individual merits. Other objections have been received regarding the extraction equipment. The applicant has indicated that equipment can exit the building at first floor level by the rear toilets facing the existing parking area. It is recommended that a condition be imposed requiring detailed specifications and exact location of this equipment before the restaurant is brought into use.

Separating the dwelling from the main building could result in noise disturbance to the residents of the new property. Presently there is no scheme to prevent the transfer of noise between the restaurant and dwelling. It is recommended that this is requested with a suitable condition.

The dwelling

The proposed dwelling has a small area of private amenity space of 56 square metres proposed within the existing parking area. Whilst the area of amenity space falls below the 80 square metres recommended by supplementary planning guidance, the dwelling is existing and the constraints of the site prevent any more space being provided. The unit is within walking distance of the playing fields on Britannia Road, which provides recreational space for the surrounding area. It is not considered that in this instance that inadequate private amenity space is sufficient to warrant a refusal.

Two off street parking spaces are provided within the parking area to serve the dwelling. To ensure that these are provided it is recommended that a condition be imposed ensuring that the two parking spaces are maintained.

Objections have been received regarding licensing hours, signs, external lighting and smoking shelters. Any external changes to the building would require separate permission under the relevant legislation.

Conclusion

It is considered that the proposed use of the building is not sufficiently different to the former use to warrant refusal of planning permission.

RECOMMENDATION :- Permit subject to the following conditions :-

SUMMARY OF DECISION - The proposal is in conformity with Policies BE1 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 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 agreed details before the premises are first brought into use for the development hereby approved and maintained in use thereafter.

- 3 The car parking facilities shall be marked out as shown on drawing number 02 dated Feb 2008 and shall remain available the occupiers of the proposed dwelling only for that use unless otherwise agreed in writing by the Local Planning Authority.
- 4 This permission relates to the application as revised by amended plan 04 and 02B received by the Local Planning Authority on 24.04.08.
- 5 Before the dwelling is first occupied a scheme to prevent the transmission of noise from the adjoining restaurant to the dwelling shall be submitted to and approved in writing by the Local Planning Authority; and all works which form part of the scheme shall be completed before the dwelling is first occupied.

Reasons :-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 3 To ensure that adequate off street parking is provided in accordance with Policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 4 To define the permission.
- 5 To protect the amenities of future occupiers of the proposed dwelling in accordance with Policy BE1 of the 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.

Contact Officer:- Sarah Humphries Ext 5680

Item: 02

Reference: 08/00141/FUL

Applicant: Wyevale Garden Centres Ltd

Location: Woodland Nurseries Ashby Road Stapleton Leicester Leicestershire

Proposal: DEMOLITION OF EXISTING DWELLING AND EXTENSION TO EXISTING GARDEN CENTRE WITH ASSOCIATED WORKS

Introduction:-

This application seeks full planning permission for the demolition of an existing house and an extension to the main building of an existing garden centre known as Woodlands Nurseries together with external alterations to the car parking and service road areas. This application relates to approximately 0.47 hectares of the overall garden centre site, located between the main building and Ashby Road, immediately to the north of the existing access. This area is currently occupied by a detached two-storey house and its curtilage used by site management together with a visitor car parking area and service roads. This application seeks to extend the retail floorspace of the main building by 2,091 square metres towards the Ashby Road frontage and to alter the car parking areas and service roads. The proposed building extension would have a modular construction and design, similar to the existing building albeit with a wider span, and be similar in height to the existing building and glasshouses.

The garden centre covers an area of approximately 6.64 hectares in total and is located on the west side of the A447 (Ashby Road) 1 mile north of Stapleton. The garden centre is surrounded by open agricultural land with occasional detached dwellings to the west, east and north. In addition to the main building (7,234 square metres) containing retail areas for a wide range of horticultural products and a cafe, there are outdoor sales areas (2,600 square metres) and large (non-public) nursery glasshouses (11,170 square metres) together with service yards and staff/visitor parking areas within the overall site. The existing buildings have grown in stages over the years and are single storey, mainly medium height, steel framed structures with a mixture of glazed and brick panel walls and pitched roof bays together with some brick built extensions with flat roofs. The parking areas are divided between formal marked tarmac areas immediately around the building together with more informal temporary hardcore areas and unmarked overspill parking in the grassed landscaped area to the south of the access. The boundaries to the site are generally hedgerows and narrow bands of perimeter tree planting.

A letter from the agent, a Design and Access Statement and a Transport Assessment has been submitted in support of the application. The supporting letter advises that the proposals are consistent with both national and development plan policies and that the garden centre suffers from a number of deficiencies and operational constraints. The proposals will provide additional retail floorspace to allow improvements to the customer entrance, internal checkout area, product ranges, internal and external circulation and storage to enhance the visitor facilities and improve the financial viability of the business.

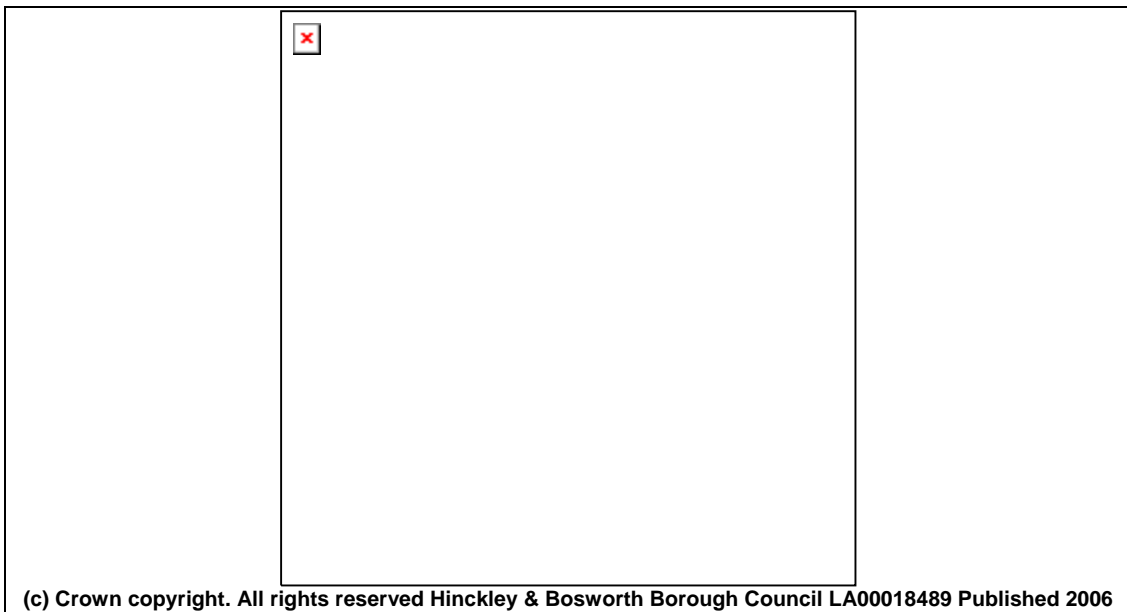
The Design and Access Statement points out that the form of the extension closely follows that of the existing building in terms of its mass, style, scale and appearance and summarises that the extended main building elevation will enhance the appearance of the garden centre and improve the access and internal circulation of the main building. Although the proposals will result in the loss of a number of parking spaces, the revised overall car park capacity is calculated to be adequate to cater for the facility and the proposals will provide improvements to the external circulation and traffic flow within the overall site. Reference is also made to the landscaped area fronting Ashby Road and increasing the depth and quality of this area to effectively screen the extension from the highway.

The Transport Assessment advises that although the site is well located for access to the strategic highway network the sites rural location has no direct public transport facilities, no cycle routes in the vicinity of the site and no footways along the A447 for pedestrians,

therefore visitors depend on the car for access to the site. The traffic counts undertaken to inform the assessment were carried out at the beginning of December when the site experiences highest customer demand and is representative of peak flows rather than typical flows. The assessment concludes that the extension of the retail floor area will increase vehicle flows to the site but that this can be accommodated on the local highway network that operates within capacity and the existing priority controlled access junction is adequate to cater for any increase and therefore the proposals would not give rise to any material highway impacts. Whilst there will be a reduction in the number of formal car parking spaces for visitors, the revised formal area together with the informal parking areas will provide adequate parking at peak times and can cater for any additional vehicles. A Travel Plan for staff at the garden centre has been produced and is included as part of the assessment in accordance with local and national transport policy in supporting sustainable travel to places of employment.

History:-

03/00966/FUL	Extensions and Alterations to Form an Horticultural Plant Shade Open Sales Area and Vehicle Turning Area	Approved	07.10.03
02/00762/FUL	Installation of Water Treatment Tank	Approved	30.07.02
01/00390/FUL	Alterations to Existing Overflow Car Park and Internal Access Road	Approved	12.07.01
99/00427/FUL	Erection of 2 Water Storage Tanks for Rainwater Recycling	Approved	08.07.99
98/00164/FUL	Extension to Garden Centre	Approved	27.05.98
96/00919/TEMP	Retention of Poly-Tunnels for Growing Horticultural Products	Approved	03.01.97
96/00807/TEMP	Retention of Toilet Block	Approved	11.11.96
96/00094/FUL	Extension of Existing Glasshouses for Plant Production	Approved	11.03.96
91/0099/4	Approval of Reserved Matters for Extension to Garden Centre	Approved	23.04.91
90/0357/4	Extension of Existing Garden Centre and Horticultural Production Area, New Car Parking and Access (Outline)	Approved	09.10.90
86/0235/4	Erection of Glasshouse for Growing Horticultural Products	Approved	29.04.86
81/0563/4	Production and Sale of Nursery Stock, Ancillary Provision of Car Parking Facilities	Approved	28.04.81



Consultations:-

No objection has been received from:-

Director of Community Services (Ecology)
Head of Community Services (Pollution)
Head of Community Services (Land Drainage).

No objection has been received subject to conditions from Director of Highways, Transportation and Waste Management (Highways).

Director of Community Services (Developer Contributions) comments that in view of the nature, scale and size of the proposed development, in this case, there is no requirement for developer contributions, however, the application will be monitored for strategic purposes.

Peckleton Parish Council raise the following concerns/objections:-

- a) plans are misleading, a house will be demolished not a bungalow
- b) there is plenty of land for expansion within the site without demolishing a habitable dwelling when there is a shortage of housing
- c) no pre-application consultations with neighbours or the local community were undertaken
- d) size of the extension is not modest
- e) reduction in parking provision
- f) increase in customers, staffing and traffic
- g) greater visual impact from Ashby Road - 8 metres to boundary not 40 metres
- h) lack of landscaping/screening proposals
- i) character of the building will change - more industrial in appearance
- j) greater environmental impact in terms of traffic
- k) inaccuracies in Transport Assessment.

Site notice and Press notice were displayed and neighbours notified, one letter has been received raising the following concerns:-

- a) hedgerow boundary with neighbouring dwelling should be retained
- b) road is 60mph section not 40mph as stated in the Transport Assessment
- c) concern is the speed of traffic using Ashby Road not the volume

- d) traffic calming measures should be undertaken around the junction.

Development Plan Policies:-

Central Government Guidance

Planning Policy Statement 1 (PPS1), in paragraph 27, states that planning authorities should seek to focus developments that attract a large number of people, especially retail and leisure developments, in existing centres to promote their vitality and viability, reduce the need to travel and encourage the use of public transport to promote more sustainable patterns of development. Planning authorities should also seek to provide improved access for all to jobs, shops, leisure etc. by ensuring that new development is located where everyone can access services or facilities on foot, bicycle and/or public transport rather than having to rely on access by car, whilst recognising that this may be more difficult in rural areas.

Planning Policy Statement 6 (PPS6) outlines the Government's objectives for Town Centres and promotes sustainable patterns of development. It suggests that development should be focussed in existing centres in order to strengthen and where appropriate regenerate them.

Planning Policy Statement 7 (PPS7) states that new building development in the open countryside should be strictly controlled to protect the countryside for the sake of its intrinsic character and beauty. Priority should be given to the re-use of previously developed ('brownfield') sites and all development in rural areas should be well designed and inclusive, in keeping and scale with its location and sensitive to the character of the countryside. Paragraph 5 encourages planning authorities to support a wide range of economic activities in rural areas including the future expansion of business premises to facilitate healthy and diverse economic activity. Paragraph 7 states that planning authorities should adopt a positive approach to proposals designed to improve the viability of existing facilities that play an important role in sustaining village communities.

Local Plan Policy

Policy BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, mass, design and materials; avoid the loss of open spaces and important gaps in development which contribute to the quality of the local environment; incorporate design features that minimise energy consumption and minimise the impact of the development on the local environment; incorporate landscaping to a high standard where this would add to the quality of the design and siting; have regard to the needs of wheelchair users; ensure adequate highway visibility for road users and adequate provision for off-street parking together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

Policy NE5 states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is either important to the local economy and cannot be provided within or adjacent to an existing settlement, or, for the extension of existing buildings and where it does not have an adverse effect on the appearance or character of the landscape; is in keeping with the scale and character of the existing buildings and general surroundings; will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping.

Policy NE12 requires development to take into account the existing landscaping features of the site and make provision for further landscaping where appropriate.

Policy RET1 states that planning permission will not be granted for major retail development proposals outside of Hinckley Town Centre unless: there is a demonstrable need for the development; there are no suitable alternative sites in the Town Centre, edge of Town centre, or Local Centres available; there is no detrimental impact on the vitality or viability of Hinckley Town Centre; it can be served by frequent and convenient public transport and maximises opportunities for access by foot and bicycle.

Policy T5 refers to the application of appropriate standards for highway design and parking targets for new developments unless a different level of provision can be justified. Policy T9 requires development proposals to encourage walking and cycling as safe and convenient means of transport. Policy T11 states that proposals likely to generate significant traffic flows should not have a detrimental effect on the local traffic situation.

Appraisal:-

The main considerations with regards to this application are the principle of additional retail development in this rural location and the impact of the development on: the character and appearance of the existing buildings and surrounding countryside; the highway network; neighbouring residential properties.

Principle of Development

Government guidance in PPS1, along with Local Plan policy RET1, seeks to focus retail development towards existing centres in order to promote more sustainable patterns of development. There is also support for the expansion of existing business premises in rural areas and a positive approach to encourage proposals designed to improve the viability of existing facilities that play an important role in sustaining rural communities, particularly where this involves the use of previously developed land.

The garden centre and plant production area is an existing thriving business, already important in the local rural economy of the area providing 160 jobs, 70 full time and 90 on a part time basis. Whilst the proposed development comprises a significant increase (29%) in floorspace in relation to the main garden centre building alone, in terms of the overall building coverage of the site, including the horticultural production glasshouse facilities, the proportional increase is not excessive (amounting to 11.4%). Due to the rural location of the site it is considered appropriate to restrict the type of sales from this extension by an appropriately worded condition. The proposed extension is also sited on previously developed land, comprising of a dwelling and car parking area, within the curtilage of the site.

Layout, Design, Scale and Appearance

The proposed extension has a modular construction and design somewhat similar to the existing buildings on the site. However, the proposed modules have a wider span and as a consequence appear more "industrial" in scale than the existing buildings and glasshouses. In addition, the design of the extension includes considerable areas of solid brickwork towards the road frontage and it is considered that this should be broken up by the introduction of more features, either in the form of additional fenestration or different materials to appear more in keeping with the existing buildings.

The proposed extension will also be considerably closer to the Ashby Road frontage, being only 8 metres from the boundary at the closest point, in comparison with the 40 metres set back that currently exists. Whilst the Design and Access Statement indicates that there will be additional landscaping, in terms of depth and quality, to effectively screen the building from the highway, no details are provided with the application and given the extent of the projection of the building towards the front boundary and the proposed access road across

the front of the building, there appears to be limited space available to provide this screening.

Following discussions with the agent, amended plans have been requested to alter the scale of the additional modules, reduce the projection of the building to reduce the prominence of the building to the Ashby Road frontage and increase the area available at the site frontage for additional landscaping and improve the elevation facing Ashby Road. Subject to satisfactory amendments to the scheme in terms of the design and appearance of the extension and to provide for more landscaping to the site frontage, it is considered that the impact upon the character and appearance of the surrounding countryside can be minimised. Given the existing established use of the site as a busy garden centre, it is unlikely that the proposals will have any additional impact upon the amenities of nearby neighbouring properties. The outcome of any amendments and further discussions with the agent will be reported as a late item to the agenda.

Highway and Parking Issues

The proposed extension will project into an area currently used for customer car parking and, as a result, reduce the overall number of parking spaces available within the site as a whole from 207 marked spaces to 159 marked spaces, a loss of 48 spaces. The extension of the facilities at the centre is also likely to generate additional traffic to and from the site. The Transport Assessment submitted with the application has demonstrated that, despite this, the local highway network and the existing access arrangements to the site, together with the remaining formal and informal car parking provision within the site will be adequate to cope with any additional traffic at peak demand. The Director of Highways, Transportation and Waste Management (Highways) has assessed the Transport Assessment as being extremely robust and therefore there is no objection to the proposals on highway grounds. A neighbour has commented that it is the speed of traffic on Ashby Road, not the quantity that is a problem. Amended plans have been received that confirm 159 parking spaces are to be retained. Inaccuracies to nomenclature referred to in the Transport Assessment are minor in nature and not material to the planning decision.

Conclusion

Although the development represents a significant expansion of the existing facilities at this garden centre it is considered that, on balance, the proposals accord with the policies of the Local Plan as well as central government advice contained in Planning Policy Statement 7. The proposals extend the existing facility to provide improvements to its operation and to improve the viability of this rural based business. The impact of the extension will not be unduly detrimental to the existing character or appearance of the landscape and will be mitigated by additional landscaping. The Transport Assessment has adequately demonstrated that there will be no detrimental impact upon the local highway network and that adequate parking provision is retained within the site.

RECOMMENDATION :- Permit subject to the following conditions :-

SUMMARY OF DECISION - The proposal is in conformity with Policies BE1, NE5, NE12, RET1 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 Nos. 7441 06 Rev A and 7441 08 Rev B received by the Local Planning Authority on 22nd April 2008.

- 3 The extension hereby permitted shall only be used for the retail sales of plants, gardening tools and sundries connected with gardening and shall be used for no other purpose within Class A1 of the Town and Country Planning (Use Classes) Order 1987, or in any statutory instrument revoking or re-enacting that Order with or without modification.
- 4 Before first use of the development hereby permitted, off-street car parking provision shall be made within the application site as indicated on amended plan No. 7441 06 Rev A received by the Local Planning Authority on 22nd April 2008. The parking areas shall be surfaced and marked out prior to the development first being brought into use and shall be so maintained at all times.
- 5 Notwithstanding the submitted details, no part of the development hereby approved shall be occupied until an amended Green Commuter Travel Plan containing a travel to work, car use and car parking management strategy for the site as a whole has been submitted to and agreed in writing by the Local Planning Authority. The Travel Plan shall then be implemented 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 In order to prevent inappropriate retail activities in a countryside location in line with Planning Policy Statement 6 - Planning for Town Centres.
- 4 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to and from the site to accord with policy T9 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 In relation to Condition 5, the revised Green Commuter Travel Plan shall comprise of proposals to reduce car dependence and vehicle emissions and to establish and encourage the use of alternative transport modes for journeys to and from work and during working hours. Details of the proposals shall include measures to secure increases in car sharing, public transport use, cycling and walking, proposals for car parking restrictions and controls and details of on-site facilities to promote alternative modes of travel to the site. The plan shall make provision for relevant surveys, review and monitoring mechanisms, targets, timescales, phasing programmes and on-site management responsibilities. It shall be implemented and subject to regular review in accordance with the above approved details.

Contact Officer:- Mr R Wright Ext 5894

Item: 03

Reference: 08/00154/FUL

Applicant: David Wilson Homes (East Midlands)

Location: 111 Stapleton Lane Barwell Leicester Leicestershire LE9 8HE

Proposal: DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF 46 DWELLINGS WITH ASSOCIATED PARKING AND VEHICULAR ACCESS

Introduction:-

This application seeks full planning permission for the demolition of the existing buildings and the erection of 46 dwellings on the existing JP Naylor site on Stapleton Lane, Barwell. The site area is 0.94 ha. The proposal includes a mix of two, two and a half and three storey units including apartments ranging from one to five bedrooms.

The site currently occupies several buildings associated with an existing use for the manufacture of handcrafted architectural stonework used in the construction industry.

It is proposed to access the site via a centrally positioned access road, which forms a hammerhead leading into a courtyard of development to both the north east and south west of the site. The plans indicate a sewer easement, which continues beyond the head of the access. The properties fronting Stapleton Lane are arranged in three blocks, two and a half storey to east of the access and a range of two, two and a half and three storey to the north of the access. Those units are positioned closer to the highway boundary than the existing properties along this side of Stapleton Lane. The remainder of the development within the site is arranged around the main access and a series of courtyards with parking provision contained within.

A Draft Section 106 Agreement, Design and Access Statement, Transport Statement and Assessment of Employment Land has been submitted with the application. The Design and Access Statement suggests that "the proposal will represent an attractive, well designed new environment for occupiers and visitors which will enhance its surroundings."

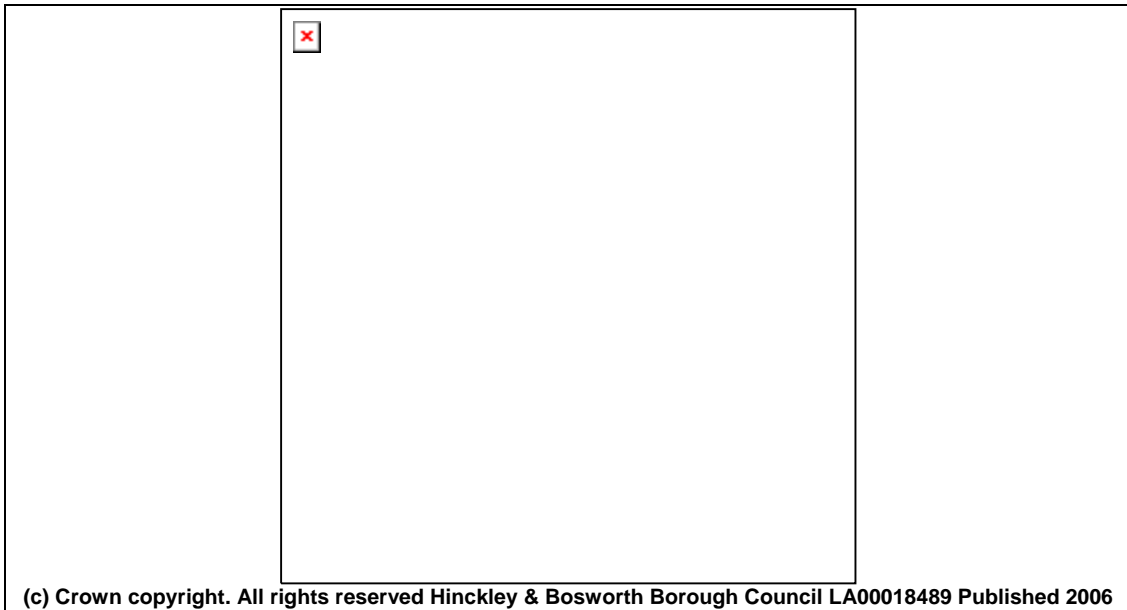
The Transport Statement has been prepared by BSP Consulting and includes calculations of existing and proposed traffic impact using the TRICS method. The Employment Land Assessment, prepared by Innes England suggests that the land is unsuitable for future employment purposes as it sits alongside a quality residential development and open countryside, it is too remote from the main centres of commerce and support services and it lacks commercial profile.

History:-

The history of the site is extensive, the most recent records are as follows:-

06/00550/FUL	Erection of a portacabin	Permitted	18.07.06
05/01345/CONDIT	Variation of condition 7 of planning permission 95/00126/COU to allow certain operations	Permitted	03.03.06
04/01410/CONDIT	Variation of condition 7 of planning		

00/01215/FUL	permission 95/00126/COU to allow certain operations Erection of production building for architectural stone manufacture	Permitted Permitted	27.01.05 01.02.01
00/01118/FUL	Extension to finishing bay	Withdrawn	22.11.00
00/00979/FUL	Extension to finishing shed	Refused	06.12.00
00/00908/COU	Continued use of site for production of architectural stonework	Permitted	8.11.00



Consultations:-

No objection has been received from Director of Community Services (Planning - Mineral Sterilisation).

No objection subject to conditions have been received from:-

Head of Community Services (Pollution)
Head of Community Services (Land Drainage)
Severn Trent Water Limited
The Leicestershire Constabulary Crime Reduction Officer.

Director of Community Services (Ecology) have recorded bats and grass snake in the vicinity and refer to trigger list requirements.

Barwell Parish Council objects to the proposal on the following grounds:-

- a) highway safety;
- b) pollution from recycling centre
- c) loss of the bund at the rear of the site
- d) overlooking and overdevelopment.

Environment Agency refer to standing advice. The site is less than 1 hectare therefore surface water run-off should be controlled and a sustainable drainage approach should be used.

Site notice and Press notice were displayed and neighbours notified.

Four letters of objection have been received raising the following concerns:-

- a) high density;
- b) insufficient access width;
- c) potential parking problems;
- d) overlooking;
- e) loss of light;
- f) noise;
- g) affect property value;
- h) TIA inconclusive;
- i) Loss of view.

One petition, with 10 signatures has been received objecting to the proposal and reiterating the grounds outlined above.

One letter of representation have been received requesting that a condition be imposed to move the 30mph speed limit towards Stapleton closer to the recycling facility.

At the time of writing the report comments have not been received from:-

Director of Highways, Transportation and Waste Management (Highways)
Leicestershire County Council, Developer Contributions
Primary Care Trust
Ramblers Association
Affordable Housing Officer.

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. Paragraph 34 suggests that the design of all development including individual buildings should contribute positively to making places better for people. It continues "Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted".

Planning Policy Statement 3: Housing underpins the delivery of the Government's strategic housing policy objectives It states that good design is fundamental to the development of high quality new housing and that Local Planning Authorities should encourage designs and layouts that promote efficient and effective use of land with 30 dwellings per hectare as the national indicative minimum density.

Planning Policy Statement 4: Planning for Sustainable Economic Development (Consultation Draft) aims to build on the objectives for the planning system set out in Planning Policy Statement 1: Delivering Sustainable Development, and provide the tools for regional planning bodies and local planning authorities to plan effectively and proactively for

the economic growth they need to help create and maintain sustainable communities. The emphasis on the need to offer a sustainable supply of land for differing business requirements and promote mixed uses.

Planning Policy Guidance 13: Transport objectives are to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight.

Planning Policy Statement 25: Development and Flood risk sets out Government policy on development and flood risk. Its aims are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk. Where new development is, exceptionally, necessary in such areas, policy aims to make it safe, without increasing flood risk elsewhere, and, where possible, reducing flood risk overall.

Regional Planning Policy

Regional Spatial Strategy for the East Midlands (RSS8, 2005) provides a broad development strategy for the East Midlands up to 2021.

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.

Local Plan Policy

The site is allocated as an Employment Site partially within the settlement boundary of Barwell as defined in the adopted Hinckley and Bosworth Local Plan.

Strategic Objective 1 - providing opportunities for investment in the Borough and promoting economic growth through sustainable development; Objective 1a: to provide an adequate supply of land that is suitable for a range of employment purposes and capable of being developed during the plan period.

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 REC2 and REC3 requires that new residential developments should make either on or off-site provision for formal and informal recreation.

RES3 requires the provision of affordable houses on sites not specifically allocated for residential purposes.

Policy RES5 provides guidelines against which to assess this range of proposal within the urban area and rural settlements. Proposals are to be assessed against the criteria within the policy.

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 EMP1b consider proposals for other employment activities, or alternative uses of the sites identified on their merits.

Policy IMP1 seeks to ensure contributions towards infrastructure and facilities commensurate with the scale and nature of the development proposed.

Other Relevant Policies

The Employment Land and Premises Study, commissioned by the Borough Council in 2004 recommends that the site be retained for employment. (EMP1 - Employment Site, actively seek to retain for employment purposes).

The Borough Council's Supplementary Planning Guidance on New Residential Development, Play and Open space and Affordable Housing provides further guidance on development proposals including design and layout standards, the provision of open space and affordable housing requirements within development proposals or financial contributions towards off-site provision.

The Borough Council's Supplementary Planning Guidance on Affordable Housing adopted September 2002 provides guidance on the provision of affordable housing.

Appraisal:-

The main issues with this proposal are the principle of residential development, access and parking, density and layout and design.

Principle

The site is allocated under Policy EMP1 in the Hinckley and Bosworth Local plan and is categorised as a 'b' site. Under EMP1(b) the policy states that the Local Authority will consider proposals for other employment activities, or alternative uses on their merits. In addition, retention of the site for employment is supported by the Employment Land and Premises Study (2004) which specifically notes that the site should be 100% retained for employment use, noting that there is limited employment space in the surrounding town and loss of this site would deplete this provision further. In accordance with recommendations in the Employment Land and Premises Study, Appendix 12, illustrates that where a site or premises owner is applying for a change of use from employment to an alternative use, they must prove that there is a lack of demand for that site or premises. The table in Appendix 12 demonstrates the various marketing tools that are considered acceptable to fulfil this requirement. Whilst the application is accompanied by a feasibility study, produced by Peter S Parsons, the report has not demonstrated that the marketing standards outlined in Appendix 12 have been met and therefore does not prove there is a lack of demand for that site for employment. In the absence of any evidence or justification to the contrary, it is considered that it has not been sufficiently demonstrated that the proposal would not result in a loss of an existing employment site to the detriment of achieving the Borough Council's Strategic Objective in providing opportunities for investment in the Borough and promoting economic growth through sustainable development. Specifically, it would conflict with Strategy Objective 1a) of the adopted Hinckley and Bosworth Local Plan which seeks to provide an adequate supply of land that is suitable for a range of employment purposes and capable of being developed during the Plan period and also ensuring the reuse of employment buildings for mixed development.

The feasibility study submitted makes reference to the provision of 25ha strategic employment site within the draft Core Strategy; and a possible over provision of employment sites, as illustrated through monitoring figures once this site is provided. The figures in fact show an under-provision of employment land.

Density

National Policy (PPS3) seeks a minimum density of 30 dwellings per hectare for all new residential development to promote the better use of land. The application site measures approximately 0.94ha, which would result in a density of 49 dwellings per hectare. The site is on an edge of settlement location adjacent to a designated play area and open countryside. The proposed density is considered to be acceptable.

Layout and Design

The scheme incorporates a range of housing accommodation from one and two bedroom apartments to five bedroom-detached houses. The development includes 9 affordable units and these concentrated in the northwestern corner of the site. No on site play and open space provision has been included within the development due to the proximity of existing public open space, which adjoins the north western boundary of the site, contributions are therefore proposed towards the improvement of existing facilities.

Two street scenes have been submitted with the application, which concentrate on the Stapleton Lane frontage and the view from head of the access drive. The Stapleton Lane frontage provides a variation of roof and eaves levels, a three storey double frontage property is located on the corner of Stapleton Lane and the access to the landfill site and public open space. Plot 7, a flat over garage has been located along the Stapleton Lane frontage. The front elevation faces southwest, and due to the type of unit this results in a relatively blank facade facing Stapleton Lane. The main access to the site has been dictated due to the position of the sewer easement, which runs through the centre of the site into the public open space at the rear. Whilst this restricts development in the area around the easement the scheme does not take advantage of this as a link to the public open space beyond. No street scenes have been provided of the internal layout of the site, particularly the properties fronting the access nor the properties fronting the access road to the open space. No consideration has been given to the street scene frontage along the access to the open space. Whilst the units to the north of this frontage are located opposite the civic amenity site the properties along this part of the development would be located in a prominent position and be visible when approaching the built form. The development as proposed would result in a large expanse of boundary treatment and predominantly blank facades, which leads to an inactive road frontage. The southwestern corner of the development comprises flats over garages and a parking court. This area of the development faces the public open space. No consideration has been given in the design of the proposal to the surrounding area and street scenes fronting public open spaces.

Access and Parking

No response has been received from the County Highway Authority at the time of writing this report. The response will be reported as a late item.

Contributions

The application proposes 46 dwellings; therefore contributions are payable. No consultation responses have been received to confirm the contribution requirements, the details will be reported as a late item.

The site is located within 400m of informal and formal open space and therefore a contribution of £1900 per dwelling is required to improve facilities at Heath Road Recreation

Area in line with the Green Space Strategy adopted 2005 and accompanying Audits of Provision Document (2007).

Other Considerations

The County Ecologist has advised that protected species have been identified in the area, however no ecological report has been submitted into order to comment specifically on this matter.

Given the proximity to the landfill site and civic amenity facilities, together with the existing use of the site there may be land contamination issues. No contaminated land assessment has been submitted with the application however, the Head of Community Services (Pollution) has advised that site investigation work and remediation works can be dealt with via the imposition of conditions.

It is therefore recommended that planning permission be refused for the reasons outlined above.

RECOMMENDATION :- REFUSE, for the following reasons :-

- 1 In the absence of any evidence or justification to the contrary, it is considered that it has not been sufficiently demonstrated that the proposal would not result in the loss of an existing employment site to the detriment of achieving the Borough Council's Strategic Objective in providing opportunities for investment in the Borough and promoting economic growth through sustainable development. Specifically, it would conflict with Strategy Objective 1a) of the adopted Hinckley and Bosworth Local Plan, and Employment Policy 5 of the adopted Leicestershire, Leicester and Rutland Structure Plan which seek to provide an adequate supply of land that is suitable for a range of employment purposes and capable of being developed during the Plan period and also ensuring the reuse of employment buildings for mixed development.
- 2 In the opinion of the Local Planning Authority, the lack of financial contribution to address the increase in pressure placed on education, library facilities, civic amenity facilities and play and open space in the local area by the proposed development would not accord with Government Guidance Circular 5/05, Strategy Policy 11 of the adopted Leicestershire, Leicester and Rutland Structure Plan 1996-2006, Policies REC2, REC3 and IMP1 of the adopted Hinckley & Bosworth Local Plan, and the Supplementary Guidance on Play and Open Space adopted October 2002.
- 3 In the opinion of the Local Planning Authority the applicant has failed to demonstrate how they have formulated a design that is of a sufficiently high standard and layout, creating an inappropriate form of development. It is therefore contrary to Policies BE1 and RES5 of the adopted Hinckley & Bosworth Local Plan, the adopted Supplementary Planning Guidance: New Residential Development and Planning Policy Statement 1.

Contact Officer:- Cathy Horton Ext 5605

Item: 04

Reference: 08/00160/FUL

Applicant: Mr T Abbott

Location: Land Rear Of Breach Farm Breach Lane Earl Shilton Leicestershire

Proposal: ERECTION OF AGRICULTURAL AND EQUESTRIAN BUILDING, MANEGE, ASSOCIATED HARDSTANDING AND CREATION OF ACCESS (RE-SUBMISSION)

Introduction:-

This application seeks full planning permission for the erection of an equestrian and agricultural storage building, a manege, associated hardstanding and creation of an access on agricultural land at the rear of Breach Farm, Breach Lane, Earl Shilton. The buildings are required to replace and relocate previously existing barns and 20 stables that have been demolished as part of the construction of the Earl Shilton By-Pass and the residential development of an adjacent site. The combined equestrian and agricultural building has a floor area of 670 square metres and provides 12 stables in two-thirds of the building with the remaining third being used for agricultural storage. The manege measures 40 metres by 20 metres with an area of hardstanding being proposed between the building and the manege. A low level lighting scheme for the manege is also being proposed. A new farm access to this part of the land holding is to be provided as part of the construction of the by-pass and incorporates a public bridleway. The application includes proposals to use part of this access from the by-pass and the construction of an additional access arrangement to the proposed development.

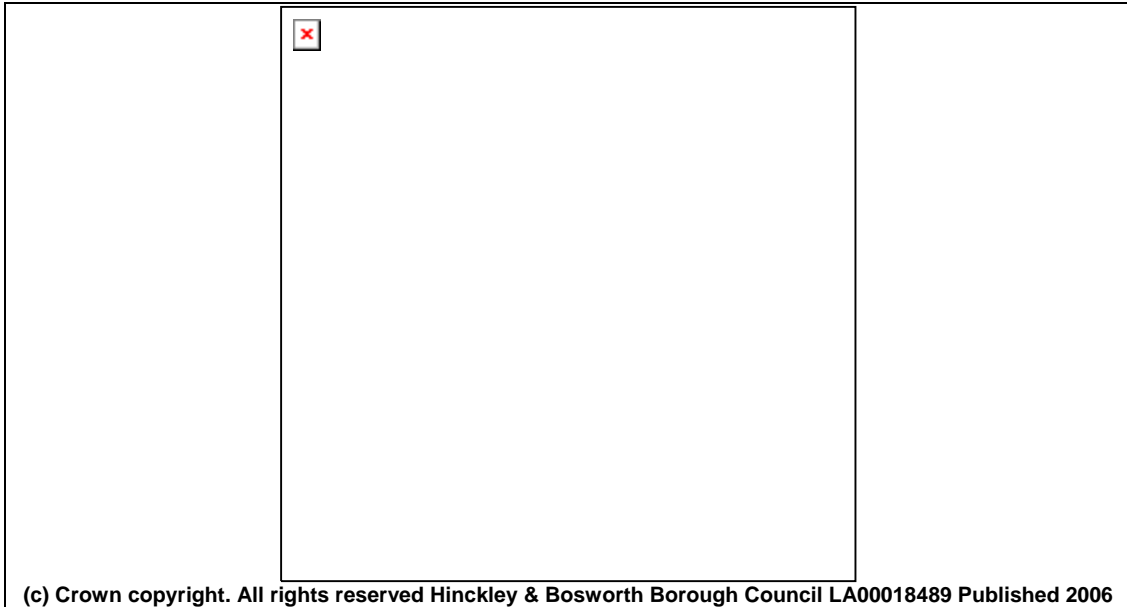
The site is located to the south of Breach Lane and the Earl Shilton By-Pass. The proposed development is sited adjacent to two existing replacement agricultural buildings on the holding. Construction work on residential development has commenced on land to the north and west of the site, there is a cluster of agricultural style buildings at some distance on land to the east, and open fields to the south. The previous application was withdrawn to allow for archaeological investigation work to be carried out prior to determination of the application.

A Design and Access Statement and an Archaeological Investigation and Evaluation have been submitted in support of the application. The Design and Access Statement advises that the buildings have been located adjacent to the existing buildings to reduce their impact on the surrounding countryside and their appearance will be similar to that of the existing buildings on the site. The Archaeological Investigation and Evaluation reveals that some activity has taken place on the site but in a very limited manner and that it would appear that promising geophysical results were based on changes in the natural substrata rather than on any archaeological features.

History:-

07/01087/FUL	Erection of Agricultural and Equestrian Building Manege, Associated Hardstanding and Creation Of Access	Withdrawn	06.12.07
07/00104/FUL	Erection of Stabling, Manege and Associated	Withdrawn	24.07.07
06/01398/FUL	Erection of Agricultural Building	Withdrawn	26.01.07
04/00475/COU	Change of Agricultural Land to Garden	Approved	24.06.04

04/00445/FUL	Agricultural Livestock Building	Approved	19.07.04
03/00663/FUL	Erection of Agricultural Storage Building	Approved	19.08.03



Consultations:-

No objection subject to conditions have been received from:-

- Director of Community Services (Archaeology)
- Environment Agency
- Head of Community Services (Pollution)
- Head of Community Services (Land Drainage).

Director of Community Services (Ecology) comments that bats have been recorded within the vicinity of the site.

Cyclists Touring Club do not object but request consideration be given to the provision of signage for the shared part of the bridleway to avoid possible conflict.

Site notice was displayed and neighbours notified. One letter of objection has been received raising the following issues:-

- a) Inaccuracies within the application
- b) farm no longer exists and by-pass is not yet in use
- c) land is agricultural not equestrian use, no planning permission exists
- d) building will be sited in open countryside and will be detrimental to the landscape
- e) lack of landscaping scheme
- f) planning permission for equine liveries was refused on adjacent land
- g) vehicle movements will be greater than indicated
- h) no mention of fodder store and horse boxes in the application
- i) use of bridleway for vehicles in connection with the equine use will compromise safety of horse riders
- j) hedges have been removed by the applicant
- k) how will horse manure and equine waste be disposed of
- l) site safety and security
- m) manege will generate additional vehicle movements on the bridleway
- n) archaeological report is for the wrong part of the field.

At the time of writing the report comments have not been received from:-

Director of Highways, Transportation and Waste Management (Highways)
Director of Community Services (Rights of Way)
Earl Shilton Town Council
Site Notice
Neighbours.

Development Plan Policies:-

Central Government Guidance

Planning Policy Statement 7 (PPS7) in paragraphs 30 - 32 recognises that diversification into non-agricultural activities is vital to the continuing viability of many farm enterprises and local planning authorities should be supportive of farm diversification schemes but that this should not result in excessive expansion of building development in the countryside. Planning authorities should encourage the re-use or replacement of existing buildings where feasible subject to their impact on the countryside and accessibility.

Local Plan Policy

The site is located outside of the settlement boundary of Earl Shilton in the countryside.

Policy BE1 seeks to ensure a high standard of design in order to safeguard and enhance the existing environment and states that planning permission will be granted where the development: complements or enhances the character of the surrounding area with regard to scale, layout, mass, design and materials; avoids the loss of open spaces and features which contribute to the quality of the local environment; has regard to the safety and security of individuals and property; incorporates landscaping to a high standard where this would add to the quality of the design and siting; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; does not adversely affect the occupiers of neighbouring properties.

BE14 states that where an initial assessment indicates that archaeological remains may exist, a archaeological field evaluation shall be carried out by a suitably qualified person and the results of the evaluation made available to the Local Planning Authority prior to determination of the application.

BE26 states that planning permission will be granted for development that incorporates a lighting scheme provided that the proposal would not unacceptably create a nuisance to nearby residents and/or road users in terms of glare; create light spillage or unnecessarily high levels of light; or affect the character or appearance of the area.

Policy NE5 states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is either: important to the local economy and cannot be provided within or adjacent to an existing settlement; is for the change of use, re-use or extension of existing buildings; and only where it does not have an adverse effect on the appearance or character of the landscape, is in keeping with the scale and character of the existing buildings and general surroundings, will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping.

Supplementary Planning Guidance on the Design of Farm Buildings provides further advice on siting, design and external appearance of new agricultural buildings.

Appraisal:-

The main considerations with regards to this application are the principle of the replacement and relocation of buildings in the countryside; access to the development; the siting, design, and scale of the proposed development; and its impact upon the character and appearance of the surrounding countryside and neighbouring properties.

Principle of Development

The route and construction of the Earl Shilton By-Pass has necessitated the demolition of a former farm complex comprising of a number of Dutch barns and numerous other single storey buildings formerly used for agriculture and providing 20 stables just to the north of the proposal site. Two buildings used for agricultural storage and livestock have already been relocated to the south of the by-pass and this application seeks a third building to replace the stables and provide additional agricultural storage.

PPS7 encourages planning authorities to support development that delivers diverse and sustainable farming enterprises and activities that promote recreation in the countryside. It is understood that the stables have been operating on Breach Farm for use by local people for over 15 years and equestrian activities are generally acceptable in rural locations. The construction of a manege in association with the equestrian use of part of the building formalises the previous established use of the adjacent fields for exercising horses and provides a better facility for the users. The hardstanding is provided between the building and manege for ease of access and has little additional impact on the countryside.

Design and Siting

The development has been sited in close proximity to the two existing agricultural buildings and the access to the land holding to provide a cluster of buildings. However, amended plans have been requested to relocate the proposed development slightly further south to align more closely with the existing buildings and further minimise any impact on the surrounding countryside. The design and proposed external building materials are typical of modern agricultural buildings, similar to those of the existing buildings on the site and comprise of green profile box sheeting to the gables, timber space boarding to the sides and natural grey fibre cement roofing. Whilst the proposed building is larger in scale than the previously existing single storey buildings, it is similar to the existing agricultural buildings on the site and replaces numerous buildings of poor construction and appearance under one roof. The internal layout of the building indicates 12 stables and additional agricultural storage. The proposed development is at some distance to any residential properties and therefore neither the building itself nor its equestrian/agricultural use will be detrimental to any residential amenities. No landscaping scheme has been submitted as part of the application but it is considered that this would enhance the appearance of the development and help to screen the building from the surrounding countryside and the adjacent by-pass. It is therefore recommended that a landscaping scheme should be secured by the use of an appropriately worded condition. The Design and Access Statement indicates that there is no objection from the applicant to providing a landscaping scheme if considered necessary.

Highway Issues

The proposed vehicular access to the site will be taken from the by-pass, via an approved shared farm access and bridleway then via a new gated access track specific to the application site running parallel to the bridleway. The proposals include an upgrade in construction to the length of shared farm access and bridleway to Highway Authority standards to reflect the likely increased use of this part of the access to and from the proposed stables. The formal recommendations of the Director of Highways, Transportation and Waste Management (Highways) to the current application have not been received at the time of writing this report and will be reported as a late item to the agenda. It is not

anticipated that there will be an objection to the proposals on highways grounds given the consultation response to the previously withdrawn application and subsequent informal discussions.

Other Issues

The Director of Community Services (Archaeology) has confirmed that satisfactory archaeological investigation and evaluation of the site has been undertaken and no further fieldwork needs to be undertaken. Condition 9 requires further post excavation archaeological work and reporting to be undertaken along with deposition of the project archive.

Notwithstanding the submitted details, a scheme for the storage and disposal of manure has been requested by the Environment Agency and can be secured by an appropriately worded condition.

The proposed development includes the erection of 2No. 150 watt Metal Halide floodlights to illuminate the manege and hardstanding area. The lights will be mounted on the southern elevation of the proposed building and directed downwards to minimise light spillage and any impact on the surrounding countryside. Condition 12 ensures that any light source will be shielded either directly or by reflection to road users in the interests of highway safety.

Whilst the original derelict farmhouse formerly known as Breach Farm has been demolished, the applicant's current dwelling is known as Breach Farm. Discrepancies between the location of the archaeological work and the siting of the proposals will be addressed by amended plans. A previous planning application on adjacent land was assessed on its own merits at the time of the application in 2003 and is not directly comparable to this application.

Conclusion

The proposed development is a result of the construction of the Earl Shilton By-Pass and involves the replacement and relocation of previously existing buildings rather than a proliferation of additional buildings. The proposed use, for stabling and agricultural storage, has been established for over 15 years and is appropriate to this countryside location. The building is similar in scale and appearance to existing agricultural buildings on the site and together with the proposed manege is sited in close proximity to them to minimise any further impact on the countryside. Adequate access is proposed to the site from the by-pass and adequate parking and turning facilities are provided within the site.

RECOMMENDATION :- Permit subject to the following conditions :-

SUMMARY OF DECISION - The proposal is in conformity with Policies BE1, BE14, BE26, NE5, NE14 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 amended by the letter from the agent dated 16th April 2008.
- 3 Notwithstanding the submitted details, prior to the commencement of the development hereby approved a scheme for the storage and disposal of manure shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details prior to the development being first brought into use.

- 4 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.
- 5 No horse manure or other waste materials shall be burnt on the site at any time.
- 6 There shall be no animal effluent or contaminated surface water from the buildings or associated impervious areas discharged into any ditch or watercourse.
- 7 Notwithstanding the submitted details, before the development hereby approved is commenced on site a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate the treatment proposed for all ground surfaces together with planting plans noting species, plant sizes and proposed numbers. The development shall be carried out in accordance with the approved details.
- 8 The approved landscaping scheme shall be carried out during the first appropriate planting season following the date when the proposed dwellings are first ready for occupation. The scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs that 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.
- 9 The applicant, their agents or successors in title, are required to undertake an appropriate programme of archaeological post-excavation analysis, reporting and archive deposition. This work will be undertaken in accordance with the specification submitted to and approved by the planning authority.
- 10 The proposed access route between the application site and the adopted public Highway shall be provided as shown in the submitted details and it shall be set out and constructed to the satisfaction of the Local Planning Authority in consultation with the Highway Authority.
- 11 Before the development hereby approved is first brought into use, the length of track shown darker green on the submitted plan shall be constructed to Leicestershire County Council (LCC) standard detail "Vehicular Access Construction (Domestic)" as shown on LCC drawing SD/11/5A*.
- 12 Any light fittings shall be shielded in order that the luminance of the light source is not visible either directly or by reflection to road users.

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 prevent pollution of the surface water system in accordance with policy NE14 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 proposed use does not become a source of annoyance to nearby residents and in the interests of visual amenity to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

- 6 To avoid water pollution in accordance with policy NE14 of the adopted Hinckley & Bosworth Local Plan.
- 7 To enhance the appearance of the development to accord with policy NE5 of the adopted Hinckley & Bosworth Local Plan.
- 8 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE5 of the adopted Hinckley & Bosworth Local Plan.
- 9 To ensure the satisfactory completion of the archaeological investigation and recording and deposition of the archive to accord with policy BE14 of the adopted Hinckley and Bosworth Local Plan.
- 10 In the interests of highway safety and the safety of bridleway users to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 11 To ensure adequate construction of the access and in the general interests of highway safety to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 12 In the interests of road safety to accord with policy BE26 of the 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 Animal waste and surface water contaminated by animal waste must not be discharged to ditches, watercourses or soakaways. Slurry, contaminated run-off (including wash water) and leachate from stockpiled manure, must be collected in tanks (or lagoons) complying with the standards laid down in the 'Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991'. Clean roof water should be discharged to soakaways (subject to suitable ground strata), ditches or watercourses.
- 4 The section of track shown light green on the submitted plan should be constructed to an appropriate standard for its purpose. For example, to "Agricultural Field Access Construction", as shown in LCC Drawing No. SD/11/5A.
- 5 The proposed access route shall be constructed in general accordance with the submitted details. Any works / required construction standards over an above those originally proposed as part of the consequential bypass works; to provide a field type access route only to the land shall be funded entirely at the applicants expense. A separate agreement will be required between the Highway Authority and the applicant to define future maintenance responsibilities for the intended access route in its entirety.
- 6 The bridleway must not be obstructed or diverted without the prior separate written consent from Leicestershire County Council.

- 7 All works in respect of the access shall be carried out to the satisfaction of the Director of Highways, Transportation & Waste Management. Please contact Mr Harjinder Marwaha 0116 305 7107 prior to any works commencing on the access route.
- 8 In relation to Condition 7, a comprehensive landscaping scheme that includes the planting of indigenous tree species to screen the proposed building and manage from the wider countryside will be required in this case.

Contact Officer:- Mr R Wright Ext 5894

Item: 05

Reference: 08/00187/COU

Applicant: Crown Crest (Leicester) Plc

Location: Timken Desford Steel Limited Desford Lane Kirby Muxloe Leicester Leicestershire

Proposal: CHANGE OF USE OF EXISTING FACTORY AND WAREHOUSE TO WAREHOUSE AND DISTRIBUTION

Introduction:-

This application seeks full planning permission for the change of use of an existing vacant factory building for the purposes of warehouse and distribution. The building was previously used as part of a much larger site engaged in the production and storage of steel tubing. This application relates only to the building and its curtilage occupying the eastern portion of the overall site that, in total, covers an area of approximately 13 hectares. The application site covers an area of 5 hectares and is located to the south of Desford Lane in countryside between the hamlet of Newtown Unthank and Kirby Muxloe. The building has approximately 26,000 square metres of floor space and occupies a majority of the application site. There are hard landscaped circulation areas together with car and HGV parking areas around the perimeter of the building and a soft landscaped screen to the frontage with Desford Lane along the northern boundary. There is a freight rail line beyond the southern boundary but it is not currently available for use by the proposal site. Further to the south is a main watercourse and associated washland.

No external changes are proposed to the existing building other than general repair and maintenance. It is proposed that the existing vehicular accesses off Desford Lane be used to serve the proposed development and that a dedicated pedestrian/cycle path be provided off one of those accesses in the interests of safety. The proposals include the provision of 175 car parking spaces and 31 HGV parking spaces within the site. The existing landscaped areas to the northern boundary of the site (fronting Desford Lane) are to be retained. A new security fence is to be erected to provide separation from the remainder of the larger site. A similar previous application submitted in 2007 was withdrawn following consultation with the Highway Authority to allow a full Transport Assessment to be carried out in relation to the proposed and previous use of the site.

A Transport Assessment including a Travel Plan has been submitted in support of the current application. The Transport Assessment concludes that the traffic likely to be generated by the proposed development will be similar in nature to that generated during its previous use as a steelworks, however, the number of trips attributed to this portion of the whole site during its previous use was significantly higher than the number that will be generated by the proposed use as a warehouse and distribution facility.

History:-

07/01020/COU COU of Existing Production/
Warehouse Facility to Warehouse Use Withdrawn

06.11.07



Consultations:-

No objection has been received from:-

The Leicestershire Constabulary Crime Reduction Officer
Blaby District Council
Central Networks
Head of Community Services (Pollution)
Head of Community Services (Land Drainage).

No objection subject to conditions have been received from:-

Director of Highways, Transportation and Waste Management (Highways)
Network Rail.

Cyclists Touring Club raises concern over the number of vehicles and the speed of traffic on Desford Lane and suggests that the applicant could make a contribution towards improving the approach to the bridleway located opposite the site in the interests of road users, walkers, cyclists and horse riders.

At the time of writing the report comments have not been received from:-

Severn Trent Water Limited
Desford Parish Council
Kirby Muxloe Parish Council
Markfield Parish Council
Press Notice
Site Notice
Neighbours.

Development Plan Policies:-

Government Guidance

Planning Policy Statement 7 (PPS7) gives priority to the re-use of previously developed ('brownfield') sites and encourages the re-use of appropriately located and suitably constructed existing buildings within the countryside, particularly in relation to economic development, where this meets sustainable development objectives. In assessing such development consideration should be given to the potential impact on the countryside, accessibility to settlements; the suitability of different types of building and of different scales for re-use.

Local Plan Policies

Policy BE1 seeks to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area; have regard to the safety and security of individuals and property; incorporate landscaping to a high standard; ensure adequate highway visibility for road users and adequate provision for off street parking together with manoeuvring facilities; not adversely affect the occupiers of neighbouring properties, and not be prejudicial to the comprehensive development of the larger area of land of which the development forms part.

Policy BE26 states that planning permission will be granted for development which incorporates a lighting scheme provided that it does not unacceptably create a nuisance to nearby residents and/or road users in terms of glare; create light spillage or unnecessarily high levels of light; or, affect the character or appearance of the area.

Policy EMP1(a) identifies this site as being of importance to the economy of the Borough and whose operation presents no significant environmental problems. It states that the Local Planning Authority will actively seek to retain this site for employment purposes during the plan period.

Policy NE5 states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is for the change of use, re-use or extension of existing buildings and where it does not have an adverse effect on the appearance or character of the landscape; is in keeping with the scale and character of the existing buildings and general surroundings; will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping.

Policy T5 refers to the application of appropriate standards for highway design and parking targets for new developments unless a different level of provision can be justified. Policy T9 requires development proposals to encourage walking and cycling as safe and convenient means of transport. Policy T11 states that proposals likely to generate significant traffic flows should not have a detrimental effect on the local traffic situation.

The Employment Land and Premises Study undertaken in May 2004 on behalf of the Council recommends that the site be retained for 100% employment use.

Appraisal:-

The main considerations with regards to this application are the principle of the proposed use as a warehouse and distribution centre and the impact of the development on the character of the area, neighbouring properties and highway network.

Principle of Development

The re-use of previously developed sites and of suitably constructed existing buildings in rural areas, particularly for economic development, is encouraged in government guidance in PPS7. Given the longstanding use of the site for the manufacture of steel tubing and its designation as an EMP1(a) employment site within the adopted Local Plan, the principle of its continued use for employment purposes providing 60 full time jobs on this part of the site is acceptable and is likely to have less impact upon the amenities of nearby residential properties than the previous use. The proposed development will not be prejudicial to the comprehensive development of the larger area of land of which this forms part, as there is adequate access etc. to enable re-use or redevelopment of the remainder of the site to be considered separately.

Impact on Character of the Area

There are no significant changes proposed to the external elevations of the building other than maintenance and repair, and its use as a warehouse and distribution centre is unlikely to have a detrimental impact upon the existing character of the area. The frontage of the site facing the National Forest on the opposite side of Desford Lane has existing mature landscaping that provides some screening of the existing building from Desford Lane and further additional planting could be provided to enhance the site by the use of an appropriately worded condition.

Highway Issues

The proposed development will reinstate the use of an existing vehicular access to this part of the site for HGV and cars and provide a separate designated pedestrian and cyclist route from another existing access. The submitted plans indicate the provision of 175 car parking spaces, 9 additional disabled car spaces and 31 HGV parking spaces within the curtilage of the site, and there is adequate space for additional spaces if so required. The Transport Assessment has assessed the traffic generated by the previous use of the site as a steelworks on a pro-rata basis against the traffic likely to be generated by the proposed use on this part of the site. The assessment concludes that the traffic generated by the proposed development will be similar in nature to that generated by the previous use, but that the number of overall trips attributed to this portion of the site will be significantly lower than the number of trips previously generated when the site was fully operational. The number of HGV movements is likely to increase (from 14 two-way trips per day to 25 two-way trips per day) but the reduction in the number of employee trips will decrease significantly (from 200 two-way trips to 60 two way trips). Whilst the number of HGV movements will increase, this equates to only two HGV trips per hour and is offset by the reduction in employee car trips. The Director of Highways, Transportation and Waste Management (Highways) has no objection to the application and comments that the assessment has demonstrated that the proposal, if permitted, will not lead to any material increase in traffic on the surrounding road network.

In addition, a Travel Plan has been proposed for the development with the aim of actively promoting the reduction of motor vehicle trips and increasing the use of other modes of transport. The site is directly accessible on foot, by bicycle and public transport (bus service) however, there may be issues with the current provision of the bus service in terms of the operating times. There is also a potential to explore the use of the existing rail network located to the rear (south) of the site in the future for both freight and passenger use, although this is not currently accessible.

Conclusion

The proposed use of the premises for employment purposes is compatible with both government guidance and local plan policy relating to employment in rural areas and will

not be detrimental to the character of the area, neighbouring properties or the highway network.

RECOMMENDATION :- Permit subject to the following conditions :-

SUMMARY OF DECISION - The proposal is in conformity with Policies BE1, BE26, EMP1(a), NE5, T5, T9 and T11 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 The premises shall not be used other than for purposes falling within Class B8 (Storage or Distribution) of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 3 Before the development hereby approved is commenced on site a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall indicate the treatment proposed for all ground surfaces together with planting plans noting species, plant sizes and proposed numbers. The development shall be carried out in accordance with the approved details.
- 4 The approved landscaping scheme shall be carried out during the first appropriate planting season following the date when the proposed use hereby approved commences. The scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs that 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.
- 5 Notwithstanding the submitted details, any vehicular access gates, barriers, bollards, or other such obstructions shall be set back a minimum distance of 15 metres behind the highway boundary, shall be hung so as to open inwards only and shall remain permanently open during hours of operation.
- 6 Notwithstanding the submitted details, before first use of the development hereby permitted, visibility splays of 4.5 metres by 160 metres shall be provided at the junction of the access with Desford Lane and shall be so maintained at all times thereafter. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.
- 7 Notwithstanding the submitted details, before first use of the development hereby permitted the vehicular access to the site shall be provided with 15 metre kerbed radii on the western side of the access.
- 8 The car parking and turning facilities shown within the curtilage of the site shall be provided and marked out before the development hereby permitted is first brought into use and shall thereafter permanently remain available for such use.
- 9 Before the development hereby permitted is first brought into use, full details of the proposed cycle parking provision 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 and once provided shall be maintained and kept available for use at all times thereafter.
- 10 There shall be no storage of materials, plant, oil drums, tyres or waste materials of any description on the open area of the site, unless otherwise indicated on the approved plan.

- 11 All light fittings must be shielded in order that the luminance of the light source is not visible either directly or by reflection to road users.
- 12 Before the development commences, details of the routing of all HGV traffic in connection with the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. All HGV traffic to and from the site shall use the agreed route at all times unless otherwise agreed in writing by the Local Planning Authority.
- 13 Notwithstanding the submitted details, before first use of the development hereby approved details of a Green Commuter Travel Plan containing a travel to work, car use and car parking management strategy for the site as a whole shall be submitted to and agreed in writing by the Local Planning Authority in consultation with the Highway Authority. The approved Travel Plan shall be implemented 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 the use remains compatible with the surrounding area to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 3 To enhance the appearance of the development to accord with policy NE5 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE5 of the adopted Hinckley & Bosworth Local Plan.
- 5 To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 6 To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 7 To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 8 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 9 In the interests of the sustainability of the development and to encourage alternative transport choice to accord with policy T9 of the adopted Hinckley & Bosworth Local Plan.
- 10 To ensure that the site does not deteriorate into an untidy condition to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 11 To protect drivers from glare resulting from uncovered light sources in the interests of general highway safety to accord with policy BE26 of the adopted Hinckley & Bosworth Local Plan.

- 12 To ensure that HGV traffic associated with the development hereby approved does not use unsatisfactory roads to and from the site to accord with policy T11 of the adopted Hinckley & Bosworth Local Plan.
- 13 To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to and from the site to accord with policy T9 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 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager - (telephone 01455 287202).
- 4 The applicant's attention is drawn to the contents of the attached consultation responses from E.ON (Central Networks) and Leicestershire Constabulary Crime Reduction Officer.
- 5 In relation to Condition 13, further work is required on the sites travel plan. The Green Commuter Travel Plan shall include proposals to reduce car dependence and vehicle emissions and to establish and encourage the use of alternative transport modes for journeys to and from work and during working hours. Details of the proposals shall include measures to secure increases in car sharing, public transport use, cycling and walking, proposals for car parking restrictions and controls and details of on-site facilities to promote alternative modes of travel to the site. The plan shall make provision for relevant surveys, review and monitoring mechanisms, targets, timescales, phasing programmes and on-site management responsibilities. It shall be implemented and subject to regular review in accordance with the above approved details. Please contact Mr M Lennon at Leicestershire County Council 0116 305 7193.
- 6 The amount of contribution in relation to the Bridleway R49 shall be agreed with the Highway Authority and paid prior to the development being first brought into use.

Contact Officer:- Mr R Wright Ext 5894

Item: 06

Reference: 08/00221/FUL

Applicant: Sycamore Developments

Location: 3 Cleveland Road Hinckley Leicestershire LE10 0AJ

Proposal: DEMOLITION OF EXISTING DWELLING AND ERECTION OF 14 NO. APARTMENTS WITH ASSOCIATED WORKS (REVISED SCHEME)

Introduction:-

This is a full application for the demolition of a dwelling and the erection of 14 flats at 3 Cleveland Road, Hinckley.

The application site is located in a predominantly residential area to the west of Hinckley town centre. Cleveland Road consists of a mix of residential properties of differing styles and sizes. To the rear of the site are more modern residential properties on Browning Drive. The application site currently accommodates a large detached three storey property with attached double garage. The existing property has a hipped roof with a central three storey projecting gable to the front elevation. The property is finished in render and plain clay tiles. The plot is rectangular in nature and largely flat though properties and gardens on Browning Drive are 2-3 metres lower than the application site.

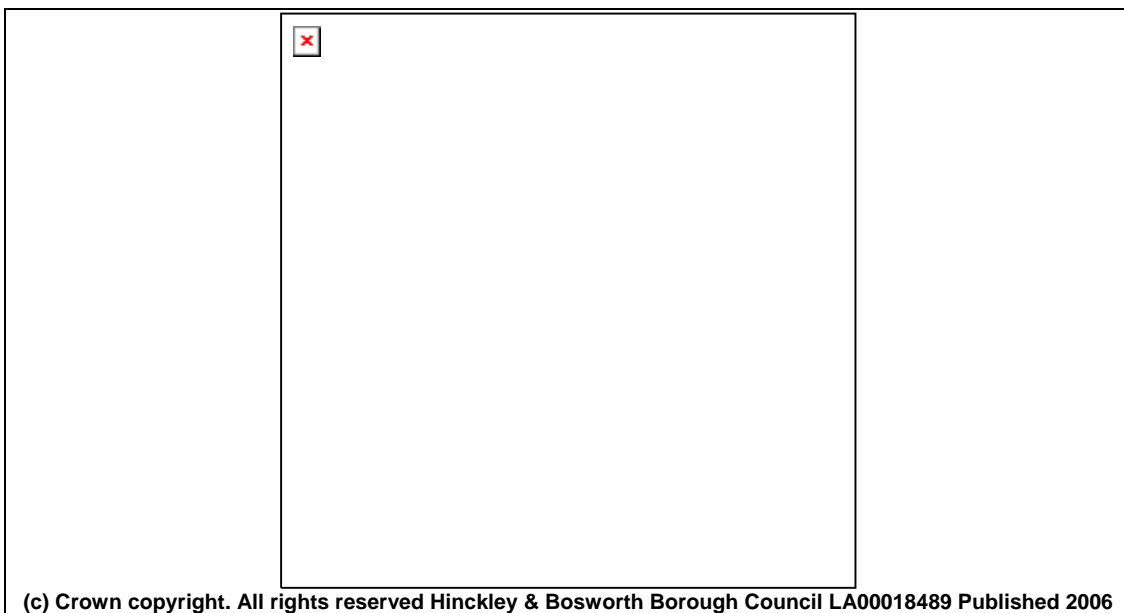
The application proposes 10 two-bedroomed apartments and four one-bedroomed apartments accommodated within a two and a half storey building with a two storey rear wing. A new access from Cleveland Road providing access to 16 car parking spaces to the rear of the site is also proposed.

The application site was subject to a previous application for the erection of 14 apartments which was withdrawn in November 2007.

The information submitted with the application includes a design and access statement which states that the proposed apartments reflect the local vernacular and will therefore be sympathetic to the character of the local area.

History:-

07/01021/FUL	Demolition of existing building and erection of 14 apartments and associated works	Withdrawn	15.11.07
00/00409/FUL	Extension to dwelling and erection of garage and store	Approved	13.06.00
00/00055/COU	Change of use to residential care home	Approved	02.03.00



Consultations:-

No objection has been received from The Environment Agency.

No objection subject to conditions have been received from:-

Head of Community Services (Land Drainage)
Severn Trent Water Ltd.

As a result of the Developer Contributions consultation, Leicestershire County Council has the following comments:

- a) Director of Community Services (Ecology) - Request bat bricks and boxes be incorporated into the scheme.
- b) Director of Children and Young People's Service (Education) - Do not request a contribution as there is surplus capacity in the local primary, high and upper schools.
- c) Head of Commercial and Support Services (Libraries)- Request £650 towards the costs of books, materials and other facilities.
- d) Director of Highways, Transportation and Waste Management (Civic Amenity) - Request £590 towards improved civic amenity site infrastructure at Barwell.

The Primary Care Trust requests a contribution of £8,162 to enhance healthcare facilities and services.

The Leicestershire Constabulary Crime Reduction Officer does not object to the application but raises the following points:

- a) The layout offers benefits to site security as there is good provision to deter unauthorised entry.
- b) Lighting should be to BS5489
- c) The site is non-permeable
- d) Landscaping should not impede the opportunity for natural surveillance
- e) There are no major concerns regarding recessed areas
- f) The location of the car parking will deter offenders having to travel within the site and the orientation of the spaces allows good natural observation between vehicles.
- g) Limited CCTV coverage could create a significantly safer area.

Initial comments from the Director of Highways, Transportation and Waste Management (Highways) do not object to the scheme but have requested amendments to the scheme to include additional parking provision. Their formal comments will be reported as a late item.

Site notice and Press notice were displayed and neighbours notified, 9 letters of objection have been received raising the following concerns:-

- a) Overlooking of neighbouring properties
- b) Dust and noise pollution from construction
- c) Traffic disruption from construction
- d) Lack of parking provision
- e) Drainage problems from additional run off
- f) Additional light and noise pollution from vehicles
- g) Impact of car park lighting on neighbouring properties
- h) Loss of existing property
- i) Impact on property values
- j) Hinckley does not need further apartments
- k) Overbearing on properties to the rear
- l) Impact on security of neighbouring properties
- m) Potential for wall to rear of site to collapse following construction work
- n) More suitable plots for development

- o) Impact on street scene
- p) Will worsen congestion problems
- q) Property could be converted rather than major redevelopment
- r) Poor visibility of access
- s) Additional volume of traffic.

Development Plan Policies:-

National Policy

Planning Policy Statement 3 - Housing, encourages the use of previously developed land within urban areas in preference to the development of greenfield sites for housing. This statement sets out 30 dwellings per hectare as the national indicative minimum. The Policy states that good design is fundamental to the development of high quality new housing, which contributes to the creation of sustainable, mixed communities.

Planning Policy Guidance Note 13 - Transport sets out national transport planning policy. With regards to parking provision this states that Local Authorities should 'not require developers to provide more spaces than they themselves wish' and that 'reducing the amount of parking in new development is essential, as part of a package of planning and transport measures, to promote sustainable travel choices'.

Local Plan

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

Policy RES5 of the adopted Hinckley and Bosworth Local Plan assesses proposals for residential development on unallocated sites. Planning permission will only be granted 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 relevant plan policies.

Policy BE1 requires high quality design which complements or enhances the surrounding area and adjacent properties in terms of mass, scale, design, density, materials and architectural features while retaining adequate amenity and privacy.

Policy T5 applies County Council highway standards to new developments in terms of both highway design and parking targets unless a different level of provision can be justified.

Policy REC3 requires all new residential development to provide outdoor play space for children.

Other Guidance

Further guidance is provided within the Borough Council's Supplementary Planning Guidance for residential development and the Play and Open Space Supplementary Planning Guidance.

Appraisal:-

The main considerations with regards to this application are:-

- a) Principle of residential development
- b) Density
- c) Layout and design
- d) Impact on neighbours

- e) Access and parking provision
- f) Contributions
- g) Other considerations.

Principle of residential development

The site is located within the settlement boundary of Hinckley and is within a residential area. The site would be classified as brownfield under annex B of PPS3. Residential redevelopment is therefore considered acceptable in principle. The scale of development was below the affordable housing threshold at the time of submission therefore no affordable units are required.

Density

The scheme proposes 14 dwellings on a site of 0.15 hectares which equates to 93 dwellings per hectare. While this is higher than densities proposed in PPS3 it reflects the sustainable position of the site and seeks to make the best use of urban land as set out in the statement.

Layout and design

The application proposes a single block set back from Cleveland Road a similar distance to the existing house and neighbouring properties. The depth of the proposed building is greater than the existing but given the separation between the proposed and the neighbouring properties, the increased projection to the rear is not considered detrimental.

The design of the proposal seeks to replicate a terrace of properties presenting four doors to Cleveland Road. Two projecting gables to the front elevation reflect the design of the existing property while the proposed segmented arches, dentil course, eaves detail and window proportions reflect the characteristics of Cleveland Road. The height of the proposal is the same as the existing building. The hipped roof reduces the mass of the proposal and again reflects the design of the existing property.

The mass of the proposal reflects the dominance of the existing building in the street scene. The inclusion of the multiple doorways, projecting gables and mix of brickwork and render will break up the mass and add to the appearance of a terrace of properties.

The design is considered to be similar in scale and take design leads from the existing building and is therefore considered a suitable replacement.

Impact on neighbours

The proposed design of the main building includes five side facing windows towards no. 5 Cleveland Road. No. 5 has only ground floor side facing windows which will look towards the boundary treatment and the proposed bin store. Overlooking in this direction is therefore not considered to be a concern.

The main block also has four windows facing no. 1 Cleveland Road which all serve kitchens. These will look towards the detached garage of no. 1 and therefore will not overlook the side facing windows in this property.

The design of the proposed building includes a centrally positioned rear wing. This includes three first floor windows serving bedrooms facing towards no. 5 Cleveland Road. The windows are 10 metres from the boundary with no. 5 which contains considerable screening proposed to be retained. 12 metres is considered an acceptable distance from windows to private rear amenity space. Given the separation distance proposed and that

the windows are not overlooking immediately behind the property, which is considered to be the most private amenity space, the proposed relationship is considered acceptable.

Similarly, two windows on the rear wing face towards no. 1 Cleveland Road. One of these serves a bedroom while the other serves a landing which is not considered to be an overlooking concern. In this instance, the distance to the boundary is 8.5 metres with a large tree proposed to be retained between the window and the boundary. No. 1 is separated from the proposed development by its garage therefore again any overlooking will not be of the private amenity space immediately behind the property.

Access and Parking Provision

The access has been amended following the withdrawal of the previous scheme. While formal comments from the Director of Highways, Transportation and Waste Management (Highways) are awaited the radii and visibility of the access appears to meet the specification requested by highways for the previous scheme.

The access leads to 16 car parking spaces to the rear of the site. Highways have requested amended plans to accommodate further parking spaces at the expense of landscaping. Amended plans have been requested which accommodate further parking without the loss of landscaping to the site boundaries.

The development proposes 10 two-bedroomed flats and four one-bedroomed flats. The former would be expected to be served by 1.5 spaces per unit requiring a total of 15 spaces while the one-bedroomed apartments can be served by a single space each. This would create a total requirement of 19 spaces. It is considered that the alterations which will be presented as a late item can accommodate at least a further two spaces which create 18 on the site. Given the sustainable location close to the town centre services and alternative travel choices and the emphasis on reducing parking provision in PPG13 it is not considered that a refusal on lack of parking could be sustained at appeal.

Contributions

Contributions have been requested of £650 towards libraries, £590 towards civic amenity and the Primary care Trust requests £8,162. Contributions towards Play and Open Space can be sought as the proposal is within 400 metres of Hollycroft Park. In this instance a contribution of £1,241 per dwelling can be sought towards improvements to the park as set out in the Green Space Strategy 2005-2010.

The applicant has submitted a draft Section 106 agreement to address these contributions.

Other Considerations

While the loss of the building has been raised as a concern, it is not listed nor considered suitable for such status. The site is also not within a Conservation Area therefore there is no statutory protection of the building and it could be demolished if the requisite notifications were submitted. The retention of the building is therefore not within the control of the Authority, only the design of a suitable replacement.

Similar concerns have requested that the existing building should be converted or that there are more suitable sites for development within Hinckley. While this may be the case, the application has been submitted for this scheme and it has to be determined on its merits. Other potential uses for the site are not a consideration of the application.

Concerns have been raised regarding noise and dust from construction work, this is considered to be temporary in nature and not grounds for refusing an application. The impact on property prices is not an issue relevant to the determination of this application.

Conclusions

The application proposes redevelopment of a site for residential use which is considered acceptable in principle. The scheme has been amended to create an acceptable design reflecting the characteristics of the street while not being any higher than the existing building. While the formal comments from highways are awaited they are not expected to object to the scheme subject to the inclusion additional parking spaces. The scheme is therefore considered acceptable subject to the 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, and Primary Care Trust and subject to no further significant additional objections being raised by the end of the consultation period, the Director of Community and Planning Services be granted powers to issue Planning Permission subject to the conditions below. Failure to complete the agreement by the 9th June 2008 may result in the application being refused:-

SUMMARY OF DECISION - The proposal is in conformity with Policies RES5, BE1, T5, NE12 and REC3 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 apartments and bin store 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 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 4 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 5 Notwithstanding the submitted details, before the commencement of development, details of all means of enclosure and boundary treatments should be submitted to and agreed in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved details. This details shall include details of an acoustic screen between the proposed access and 5 Cleveland Road.
- 6 This permission relates to the application as revised by amended plan **** received by the Local Planning Authority on ****.
- 7 The car parking and any turning facilities shown on approved plan xxx shall be provided before the dwelling is first occupied and shall thereafter permanently remain available for such use unless otherwise agreed in writing by the Local Planning Authority.

- 8 Before first occupation of any of the apartments 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.
- 9 Prior to the commencement of development, the existing vehicular access to Cleveland Road shall be closed permanently and the existing vehicular crossing reinstated in accordance with a scheme that has been submitted to the Local Planning Authority in consultation with the Highway Authority and agreed in writing. The development shall then be implemented in accordance with the approved scheme.
- 10 For the period of the construction of the development within the site, vehicle wheel cleansing facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned, as may be necessary, before entering the Highway.

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 that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure the development is provided with 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 & Bosworth Local Plan.
- 5 To ensure that the proposed boundary treatments minimise noise and disturbance from the proposed access drive and car park area to accord with policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 6 To define the permission.
- 7 To ensure that adequate off-street parking facilities are available to accord with policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 8 To reduce the possibility of deleterious material being deposited in the highway (loose stones etc) to accord with Policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 9 To reduce the number of vehicular accesses to the site and consequently to reduce the number of potential conflict points to accord with Policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 10 To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users to accord with Policy T5 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 Condition 4 refers to drainage. The submitted details shall incorporate sustainable urban drainage principles for surface water management either through infiltration or runoff attenuation depending on the suitability of ground strata.

Contact Officer:- Mr P Metcalfe Ext 5740

Item: 07
Reference: 08/00238/FUL
Applicant: Mr And Mrs M Inch
Location: The Old Coach House 24 Wykin Lane Stoke Golding Nuneaton Leicestershire
Proposal: ALTERATIONS TO DWELLING AND ERECTION OF BOUNDARY WALL.

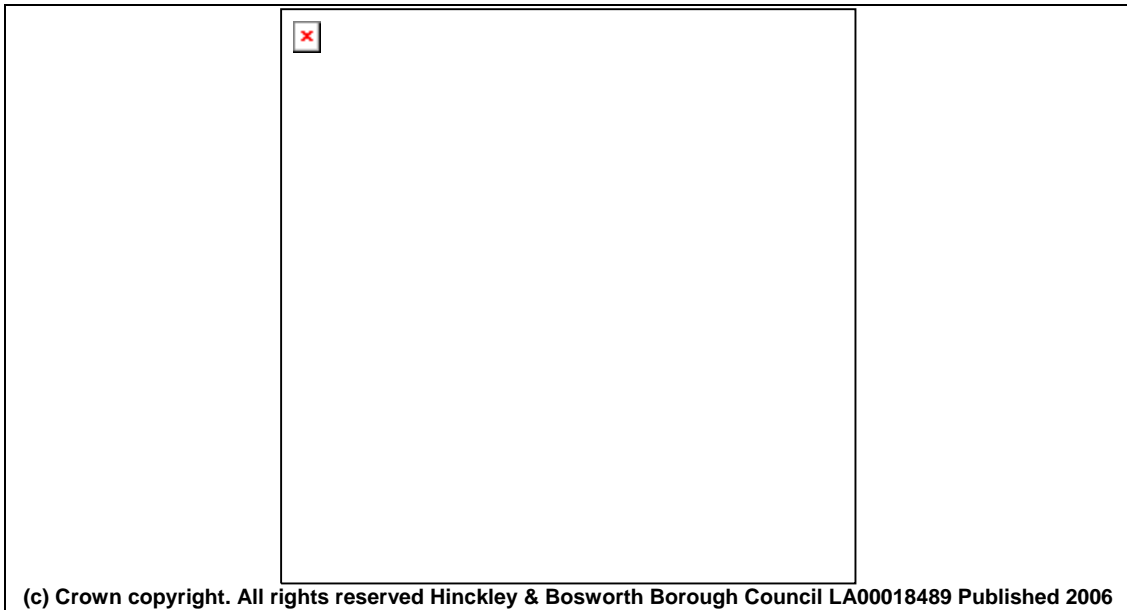
Introduction:-

This application seeks full planning permission for alterations to the dwelling and the erection of a 1.45 metre boundary wall to enclose the open grassed area to the front of the property and along Wykin Lane. 2 metre high gateposts along with wrought iron gates are proposed to serve a new access along Wykin Lane. The provision of the new access does not require planning permission as Wykin Lane is an unclassified road. It therefore does not form part of this application.

The application property is a detached dwelling with its northeast elevation abutting Wykin Lane. Whilst the property is significantly older than those adjacent, it forms part of an attractive crescent of properties set back off Wykin Lane. The property is of vernacular style comprising red brick elevations, clay tiles to the roof and timber windows. The property includes attractive eaves and ridge detailing.

History:-

95/00451/COU	Conversion of stable block/ coach house to dwelling	Approved	12.06.96
--------------	--	----------	----------



Consultations:-

No objection has been received from:-

Head of Community Services (Pollution)
Director of Community Services (Ecology).

The Director of Highways, Transportation and Waste Management (Highways) has no objections to the proposal subject to the proposed gates being set back a minimum of 5 metres from the carriageway and the pedestrian and vehicular visibility splays to be provided being a minimum of 2.0m x 2.4m.

The Borough Council's Arboricultural Consultant has reported that an oak tree is situated in the vicinity of the proposal, which has a Tree Preservation Order. He has advised what the appropriate steps are to ensure no damage occurs to the tree or its root systems.

6 letters of objection have been received raising the following concerns:-

- a) The height of the wall being detrimental to the street scene
- b) The height of the wall having a detrimental impact on highway safety
- c) The loss of view
- d) Out of character
- e) Overbearing
- f) Root damage to trees.

Stoke Golding Parish Council states that the property has an open aspect, the enclosed walling of the garden is not in keeping with the street scene.

At the time of writing this report no representations have been received from Stoke Golding Heritage Group.

Development Plan Policies:-

The site falls within the settlement boundary of Stoke Golding as defined by the adopted Hinckley & Bosworth Borough Council Local Plan.

Policy 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 ensures adequate highway visibility for road users and does not have an adverse affect on the occupiers of neighbouring properties.

Appraisal:-

The main considerations with regards to this application are the impact of the wall on the street scene and on highway safety.

The character of Wykin Lane is predominantly that of a mature tree lined street with properties of varying styles and established frontages. The introduction of a brick wall along Wykin Lane, which bounds the frontage of no.24 will further add to the diversity of the boundary treatments along Wykin Lane. Due to the physical characteristics of the property, with the amenity areas being located to the front and side of the property and not to the rear, it would be unreasonable to deny the occupiers of the no.24 some privacy to their amenity space. In balancing the visual impact of the wall, it is considered necessary to impose a condition requiring the submission of a landscaping scheme to provide soft landscaping to the area between Wykin Lane and the proposed brick wall.

Due to the proposed wall being set back 2.5 metres from the highway and behind the verge it is not considered that the proposal will have a detrimental impact on highway safety. The proposed gate posts will be set back 5.5 metres from the highway and the proposed gates will be hung so as to open inwardly only. This will allow for a vehicle to leave the highway whilst the gates are opened. Adequate visibility splays are proposed; ensuring pedestrian and vehicular visibility is maintained for vehicles leaving the site. The proposal therefore meets the requirements of the Highway Authority.

The proposed alterations to the dwelling are considered to be satisfactory and will restore many of the original features of the dwelling that have been lost due to previous alterations. It is not considered that the alterations will have a detrimental impact on neighbouring properties. The materials proposed to be used on the alterations are in keeping with the original property and will therefore complement the property.

Overall it is considered that the proposal complies with policies T5 and BE1 of the adopted Hinckley & Bosworth Borough Council Local Plan.

RECOMMENDATION :- Permit subject to the following conditions :-

SUMMARY OF DECISION - The proposal is in conformity with Policies BE1 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 extensions and alterations 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 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
 - (i) planting plans
 - (ii) written specifications
 - (iii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
 - (iv) implementation programme.

- 4 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 enhance the appearance of the development to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.

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:- Louise Winson Ext 5898

Item: **08**

Reference: **08/00255/FUL**

Applicant: **Mrs V Garland**

Location: **Land At Ratcliffe House Ratcliffe House Lane Ratcliffe Culey
Leicestershire**

Proposal: **ERECTION OF AN AGRICULTURAL DWELLING**

Introduction:-

This application seeks full planning permission for the erection of a two storey agricultural workers dwelling. This application is a resubmission following the withdrawal of an earlier application for a larger agricultural dwelling on the same site.

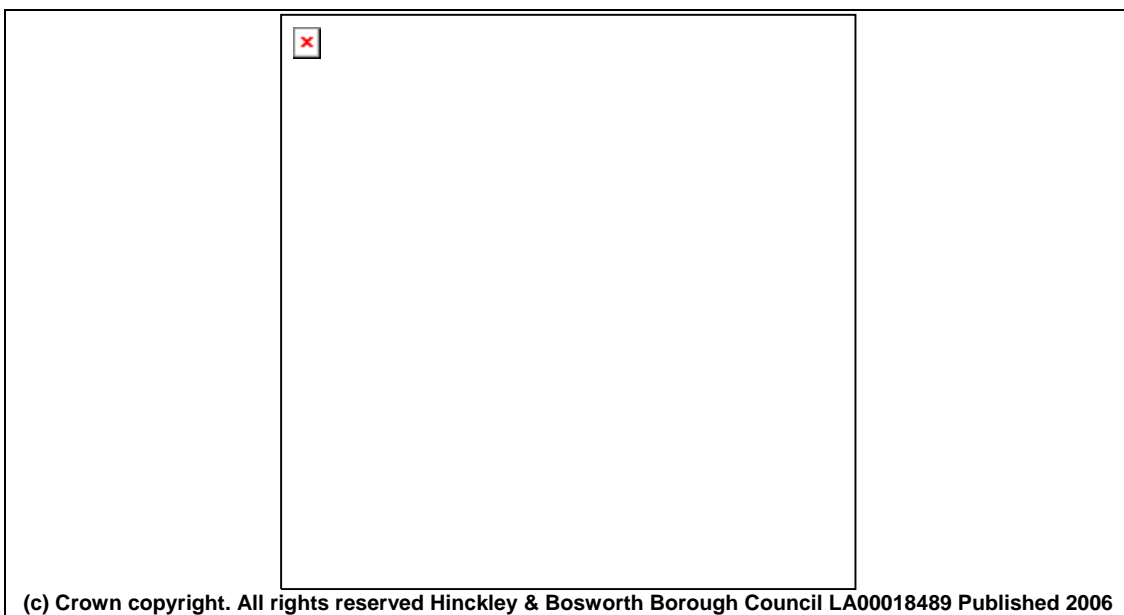
The dwelling proposed is of modest size and red brick and slate roof. The dwelling takes the appearance of a late Georgian farmhouse typical of those found within the surrounding rural landscape.

The application is submitted along with a supporting statement that seeks to justify the erection of the dwelling in the countryside. The proposal is required for the successful running of the agricultural unit given the number of livestock, which form part of the core business of the farm. The applicants are currently working the agricultural unit and are living on site in a mobile home.

Following concerns of officers in respect of the overall size of the dwelling proposed, amended plans have been submitted that have reduced the size of the house, whilst maintaining the overall appearance and design.

History:-

07/00997/FUL	Erection of an Agricultural Dwelling	Withdrawn	03.12.07
05/00849/FUL	Siting of a Mobile Home	Approved	30.11.05



Consultations:-

The Environment Agency objects to this application on the grounds that the proposed septic tank fails to comply with the requirements of DETR Circular 03/99, which requires a selection hierarchy for foul sewage treatment

No objection has been received from:-

Witherley Parish Council
Head of Community Services (Pollution).

No objection subject to conditions have been received from:-

Director of Highways, Transportation and Waste Management (Highways)
The Borough Council's Agricultural Appraisal Consultant
Severn Trent Water.

Site notice and Press notice were displayed and neighbours notified and no neighbour comments have been received.

At the time of writing the report written comments have not been received from the Borough Councils Agricultural Appraisal Consultant.

Development Plan Policies:-

Central Government Guidance

Planning Policy Statement 7 states that in relation to new agricultural dwellings in the countryside there will be some cases in which the demands of the farming industry or forestry work may make it essential for one or more of the people engaged in this work to live at or very close to the site of their work. Whether this is essential in any particular case will depend on the needs of the farm or forestry enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved.

If a new dwelling is essential to support a new farming activity, whether on a newly created agricultural unit or an established one, it should normally, for the first three years be provided by a caravan or other temporary accommodation.

Structure Plan Policies

There are no saved structure plan policies relevant to this decision.

Local Plan Policies

The site lies beyond the settlement boundary to Ratcliffe Culey as defined on the local plan proposal map.

Policy RES12 New Agricultural Dwellings provides a series of criteria that agricultural dwellings must achieve to be acceptable.

Policy BE1 considers the design and siting of the development, in terms of the effect on the character of the area, amenities of neighbours and highway safety.

Appraisal:-

The main considerations with regards to this application are the acceptability of the proposal as an agricultural workers dwelling within the countryside, the acceptability of the design proposed, the provision of vehicle parking and the objection received from the Environment Agency in respect of the disposal of sewage.

Principle

Information supplied in support of the 2005 application for a mobile home in connection with the agricultural units states that the proposal arises due to the dissolving of a farming company by the applicant's father. This has resulted in the farmhouse at Mythe Farm, which is currently occupied by the applicants being passed to Mr Garland's brother, together with the farm buildings, and approximately 30 hectares of the farmland situated at Mythe Farm. The remaining farmland which Mr D Garland, the applicant will farm, comprises 44.5 hectares of owned land, 201.9 hectares of rented land and 204.46 hectares taken on insure short-term lets in the area.

The requirements of policy RES12 are such that in considering the necessity of any new agricultural dwelling, it must be established that on site accommodation is necessary with regard to security and the efficient operation of the holding. The applicant claims that operation of the unit means it is necessary for workers to be within close proximity to ensure that animals are properly maintained and that any emergencies that arise can be dealt with expeditiously and as such dictates the need for on site accommodation. The

Council granted planning permission for the temporary siting of the mobile home on the site to enable the applicant to demonstrate the need for a permanent dwelling in connection with the agricultural enterprise.

The County Councils Land Agent (now the Borough Council's Agricultural Appraisal Consultant) provided extensive comments on the previously withdrawn application at this site, as the dwelling was found to be much larger than the agricultural unit could sustain. It was recommended that the external floor space of the dwelling be reduced to be not more than 185 square metres.

This current proposal, as submitted, was still slightly larger than 185 square metres that the agricultural unit could sensibly sustain and therefore was deemed unacceptable. Following detailed discussions with the applicants agent a revised design has been submitted which is within the floor space required. The Borough Council's Agricultural Appraisal Consultant has verbally confirmed that the proposal passes the functional test set out in Annex A to PPS7 and, he is now satisfied that the agricultural unit can sustain a new agricultural dwelling of the revised size on the site. His full written comments are to follow and will be reported as a late item along with any other matters that arise from this consultation.

To avoid the creation of two residential units on site, upon construction of the new dwelling the, the existing mobile home will need to be vacated and removed from site and this can be appropriately achieved by way of the imposition of a condition of any approval of permission.

Design

The site in question is remote in its position within the countryside and is dominated by the applicant's mobile home and two agricultural storage buildings. Due to the rural nature of the landscape surrounding the site, views of the application site are distant and therefore the proposal will not be particularly detrimental to the rural landscape.

The dwelling is to be sited in close proximity to the existing agricultural buildings, which dominate the open landscape. The wider surrounding area is that of a predominately flat rural landscape bound by mature hedgerows and trees.

The simplistic red brick styling of the dwelling will assimilate as well as any new build dwelling can in this undeveloped open landscape. The siting of the building in close proximity of the existing agricultural buildings creates a neat cluster of development. Furthermore, whilst being a new build, the dwelling will take the appearance of a much older building similar to those commonly found in the open countryside, which will help its natural assimilation into the landscape. The surrounding farmsteads are mostly red brick and slate roofed, two and three storey dwellings of similar scale and overall design.

Access and Parking Provision

The existing agricultural unit and mobile home is accessed from Ratcliffe House Lane and provides ample parking for both the agricultural unit within the farmyard, and the mobile home adjacent to it. The proposed dwelling seeks to provide a parking area forward of the dwelling adjacent to the access drive and existing mobile home. The exact position of the car parking area will be defined by the landscaping scheme that will be required by way of a condition of any approval.

Disposal of Sewage

Following receipt of the objection from the Environment Agency in respect of the proposed use of a septic tank, the applicants agent has confirmed that the development will only proceed in accordance with the guidance of the Environment Agency and therefore a

package sewage treatment facility will be installed. This matter can be successfully controlled by the imposition of a condition of any approval.

Conclusion

A new agricultural workers dwelling in this location satisfies the tests of PPS 7 and local plan policy for such a development and the design of the dwelling is appropriate to this sensitive countryside location. It is proposed to control the occupation and further expansion of the dwelling by way of condition of any planning permission to ensure that the dwelling remains necessary for agriculture and of a size that is commensurate with the agricultural unit. The application is therefore considered acceptable.

RECOMMENDATION :- Permit subject to the following conditions :-

SUMMARY OF DECISION - The proposal is in conformity with Policies BE1 and RES12 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 01 received by the Local Planning Authority on 17 April 2008.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling 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 The occupation of the dwelling shall be limited to a person solely or mainly working, or last working in the locality in agriculture as defined in Section 336 (1) of the Town and Country Planning Act 1990, or in forestry or a widow or widower of such a person, and to any resident dependants.
- 5 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, including spaces for at least 2 cars
 - (iv) hard surfacing materials
 - (v) planting plans
 - (vi) written specifications
 - (vii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
 - (viii) implementation programme.
- 6 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.
- 7 Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development Order) 1995 (or any order revoking or re-enacting that order with or without modification) the buildings hereby approved shall not be extended

without the grant of planning permission for such extensions by the Local Planning Authority.

- 8 The development hereby permitted shall not commence until drainage details for the disposal of foul sewage have been submitted to and approved in writing by the local planning authority. The details shall be in accordance with DETR Circular 03/99. The development shall then proceed in accordance with the approved details before the first occupation of the dwelling.
- 9 Within one month of the occupation of the dwelling house hereby permitted, the mobile home permitted by planning permission 05/000849/FUL shall be removed from the site.

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 The site lies within an area where the Local Planning Authority would not normally grant permission for residential development. But for the special circumstances of the applicant the Local Planning Authority would not have been prepared to grant permission to accord with policy RES12 of the adopted Hinckley & Bosworth Local Plan.
- 5&6 To ensure the satisfactory appearance of the development in its countryside setting.
- 7 The site lies within an area where the Local Planning Authority would not normally grant permission for residential development. The dwelling hereby permitted has been justified by the agricultural needs of the applicant and the dwelling is proportionate to the needs of the applicant and the agricultural unit. Further extensions would create a disproportionate dwelling and would be unacceptable in terms of policy RES12 of the adopted Hinckley & Bosworth Local Plan.
- 8 To ensure the development is provided with a satisfactory means of drainage as well as reducing the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.
- 9 To ensure that only one residential unit exists on site inline with planning policy and in the interests of the character and appearance of the countryside.

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:- James Hicks Ext 5762

Item: 09

Reference: 08/00326/FUL

Applicant: Mrs J Axon

Location: 7 Tudor Grove Groby Leicester Leicestershire LE6 0YL

Proposal: ERECTION OF ONE DWELLING INCLUDING ALTERATIONS TO 7 TUDOR GROVE RE-SUBMISSION OF 07/01002/FUL.

Introduction:-

This application seeks full planning permission for the erection of a two storey dwelling with two attached single garages, one serving No. 7, which links to the new dwelling. This application is an amended scheme to a previously approved scheme considered by the planning committee on 23 October 2007. The differences include changes to the design and floorspace.

The site is located to the west of No. 7 Tudor Grove (a detached two storey dwelling), on land currently used as garden area. The proposed dwelling has similar design features and scale to No. 7. The proposal indicates off- street car parking provision for both the new dwelling and existing dwelling No. 7.

A conservatory erected to the side elevation of No. 7 and detached double garage are proposed to be demolished to accommodate the proposed development.

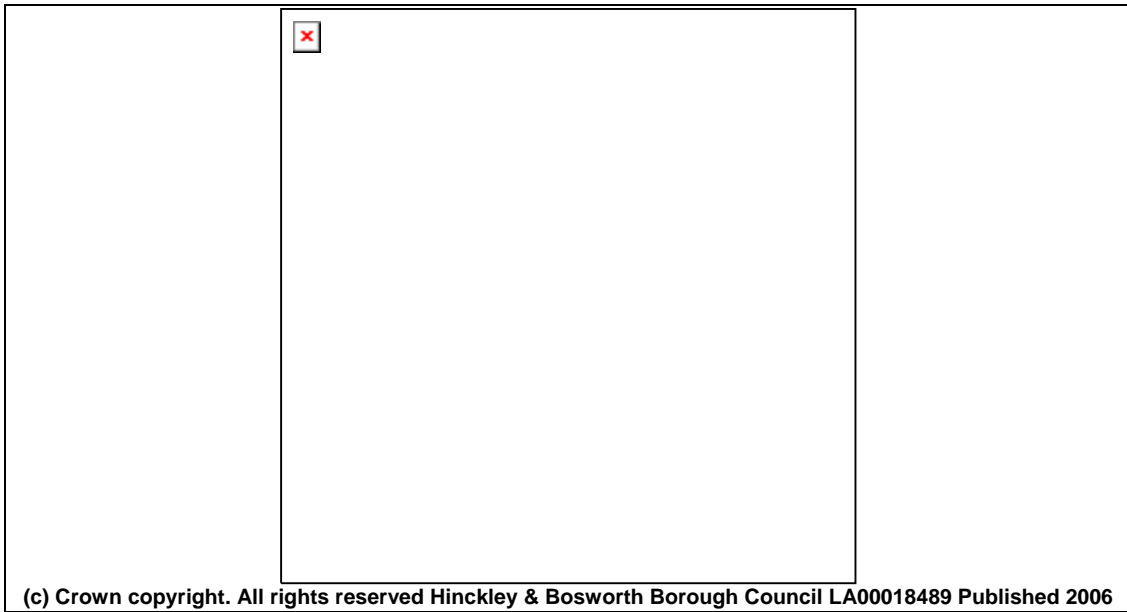
The front boundary is planted with mature trees and foliage with iron gates and railings located at the back edge of the footway enclosing the garden. Mature trees are also planted to the rear of the site within a landscaping buffer screen to Sacheverall Way.

The trees within the estate are protected by an Area Tree Preservation Order. Two trees are proposed to be removed from within the site, however these trees appear to have been planted after the Order was placed.

A Design and Access Statement was submitted with the application which states "the revised scheme is for a smaller dwelling to reduce the build costs and enable the current owner of the site to develop the site personally."

History:-

07/01002/FUL	Erection of one dwelling including alterations to No. 7 Tudor Grove	Approved	24.10.07
02/00441/FUL	Erection of boundary fence	Approved	31.05.02



Consultations:-

No objection has been received from:-

Head of Community Services (Land Drainage)
Head of Community Services (Pollution).

Groby Parish Council states that strong objections were raised to the earlier application and they remain.

Site notice displayed and neighbours notified.

At the time of writing the report comments have not been received from:-

Director of Community Services (Ecology)
Director of Highways, Transportation and Waste Management (Highways).

Development Plan Policies:-

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

Policy RES5 of the adopted Hinckley and Bosworth Local Plan refers to residential proposals on unallocated sites and states that residential proposals on such sites will be granted planning permission if they lie within the boundaries of a settlement area and the siting, design and layout does not conflict with the relevant plan policies.

Policy BE1 of the adopted Local Plan seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Planning permission will be granted where the development: complements or enhances the character of the surrounding area with regard to scale, layout, design, materials and architectural features; avoids the loss of open spaces and features that contribute to the quality of the local environment; ensures adequate provision for off street parking for residents and visitors; does not adversely affect the occupiers of neighbouring properties.

Policy REC3 of the adopted Local Plan requires the provision of informal children's play space.

Policy T5 of the adopted Hinckley and Bosworth Local Plan states that planning permission for development proposals will be granted providing they comply with the parking standards unless a different level of provision can be justified.

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

The Council's Supplementary Planning Guidance for Play and Open Space sets out the additional criteria for provision of play and open space.

Appraisal:-

Principle

The site is located within the settlement boundary of Groby therefore residential development is considered acceptable in principle. A similar, slightly larger scheme has been granted planning permission in October 2007.

Design and landscaping

Tudor Grove is located off Lime Avenue and serves 15 dwellings. The house types consist of a mixture of two storey semi-detached and detached dwellings. Although the application has reduced the size of the dwelling and changes its design and changed its design, primarily for financial reasons, the proposal is considered in keeping with the street scene generally, whilst the scheme proposes the removal of trees the scheme retains several other trees around the boundaries of the site. A condition is imposed to secure their retention and protection whilst the development is under construction.

Impact on amenity

With regard to the impact of the proposal on neighbouring properties, No's 8 and 9 Tudor Grove are located to the west of the application site. The boundary of the application site runs alongside the private drive to No. 8. A distance of 14.7m is maintained between the two storey elements of the proposal and No. 8. No. 14 and 15 are located to the north of the application site on the opposite side of the road. On the basis of this information it is considered that there would not be any significant impact on the occupiers of nearby dwellings.

Highway

Whilst the scheme removes the existing off-street parking provision for No. 7 the proposal includes sufficient off-street parking provision for both properties.

Financial contributions

The site is within 400 metres of an informal public play and open space, therefore a financial contribution of £1241 towards the provision and maintenance of informal public play and open space will be required in line with policy REC3 of the adopted Hinckley and Bosworth Local Plan, the Council's Play and Open Space Guide together with the objectives of both the adopted Green Space Strategy and recommendations of the Parish Open Space Quantity/Accessibility Audit 2005.

Conclusion

The development is located within the settlement boundary of Groby where the principle of residential development is acceptable. Planning permission has been granted for a similar

scheme and whilst works have not commenced on site the planning permission remains extant. This revised scheme is considered to be in keeping with the surrounding area and would not result in any significant harm to residential amenity and is therefore considered acceptable.

RECOMMENDATION :- Permit subject to the following conditions :-

SUMMARY OF DECISION - The proposal is in conformity with Policies RES5, BE1 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 and garages 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 The car parking (including garage spaces) shown on the submitted plan shall be provided before the new dwelling is first occupied and shall thereafter permanently remain available for such use unless otherwise agreed in writing by the Local Planning Authority.
- 4 Prior to the development commencing on site the car parking (including garage) space shown hatched on the attached plan shall be provided solely for the use of No. 7 Tudor Grove and shall thereafter permanently remain available for such use unless otherwise agreed in writing by the Local Planning Authority.
- 5 Before any development is commenced on the site, including site works of any description, each of the trees (indicated by number on the attached plan) shall be securely fenced off by protective fencing, in a scheme to be agreed in writing by the Local Planning Authority. Within the areas so fenced off, the existing ground level shall be neither 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 5cm or more shall be left unsevered.
- 6 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 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.
- 7 Before development commences on the site a detailed scheme for the boundary treatment of the site shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the dwelling is occupied.
- 8 No development shall take place until a drainage scheme for the disposal of surface water and foul water have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented according to the approved plans.

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&4 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 5 To ensure that existing trees are adequately protected during construction in the interests of the visual amenities of the area to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure the provision of Play and Open Space to accord with policy REC3 of the adopted Hinckley & Bosworth Local Plan.
- 7 In the interests of visual amenity to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 8 To ensure satisfactory provisions are made for the drainage of the site.

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 Condition 6 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, 241 per dwelling 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.
- 4 The applicant is advised that soakaways are preferred if the ground strata is suitable.

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

Contact Officer:- Cathy Horton Ext 5605

PLANNING COMMITTEE - 6 MAY 2008

REPORT OF DIRECTOR OF COMMUNITY & PLANNING SERVICES
RE: THE FUTURE OF BUILDING CONTROL

1. **PURPOSE OF REPORT**

To advise members of the recent consultation on Building Control matters by the Department of Communities and Local Government (DCLG).

2. **RECOMMENDATION**

That Members endorse the response, contained in Appendix 1, to the Department of Communities and Local Government consultation document "The Future of Building Control"

3. **BACKGROUND TO THE REPORT**

In March 2007 the CLG published a report called '*Achieving Building Standards: Final Report*' which in essence concluded that the current Building Regulation process is not fit for purpose in the 21st century. The report claimed that the Building Regulation process has led to a low level of compliance, in particular with non-health & safety matters. It is believed that evidence for this claim was produced by a university research project into compliance with Part L (energy conservation)

It is important to note that the criticism about the level of compliance is not specific to this authority, as the review took place across both England and Wales and looked at both Local Authority and Approved Inspector sites. Unfortunately in making the above claims, it is believed that the researchers omitted to take account of which Part L the dwellings were constructed to, or any of the transitional arrangements relating to the introduction of the current version. In addition it is believed that no construction elements were exposed to show building standards or construction.

Whilst officers would dispute the compliance claims, they acknowledge that there will be times where developers or building owners do not comply with the legislation either deliberately or through a general lack of site construction skills or knowledge, and that these will not be picked up by inspection. Consequently they agree that the Building Regulation process should be reviewed to make the Building Regulation process easier to understand and administer for all stakeholders.

The '*Future of Building Control*' document was published in March 2008, and seeks the views of all stakeholders and interested parties. The CLG admit that the review is not a clean sheet opportunity, and sees this review as simply a

means to improve the existing legislation. As a generalisation, the Council is disappointed with this approach and the fact that the document appears to target local authorities, rather than the function as a whole as there are serious issues with regards to Approved Inspectors and 'Competent Person Schemes'.

The document contains 5 basic elements as follows: -

Chapter 1 A Vision for Building Control

Chapter 2 A Better Approach to Delivering Regulations and Guidance

Chapter 3 Modernising Inspection and Enforcement

Chapter 4 Alternative Routes to Compliance

Chapter 5 Improved Performances and Capacity

In total the review asks interested parties to answer 77 specific questions, which have been included in Appendix 1.

The main issues can be summarised as follows: -

Chapter 1 A Vision for Building Control

The vision that the CLG have proposed is supported by this authority, as it replicates the vision that the Council has for the service, albeit the Council's is not documented. The Council is somewhat concerned though, that the CLG itself appears to not have a clear vision for the function, and that this may be indicative of the problems currently faced by officers where other statutory functions impose requirements that mirror or undermine their work.

The Council also recommends that the vision for should complement those already established for other statutory functions, in particular Planning, to prevent duplication of effort and ensure that technical matters are dealt with where the appropriate skills exist.

The consultation document recognises that the Building Control function is not a clerk of works service, or a means by which people undertaking building work can use the Council to resolve quality or contract issues. Officers however, deal with a number of complaints where a key issue is quality, and as such the Council recommends that the CLG re-considers whether it is appropriate for the Building Regulation process to ignore this issue, particularly when the principle aim of the review is to improve compliance, building standards, and add value to projects.

Other key issues under consideration are a joint Building Regulation and Planning application process, and further e-enabling the Building Control process.

The Councils is supportive of a joint application process if it is appropriate to the customer and project, however there would be concerns as to the role Building Control would play in such an arrangement as the service is often perceived as the Cinderella "planning" service. There is also concern, as to how Approved Inspectors would engage with the planning process.

With regards to further e-enabling the service, the team can currently accept electronic applications via 'Submit-a-Plan', is currently piloting home working, and will shortly trial mobile working. There are some concerns with electronic service delivery, which need to be properly tested and financed before officers can fully engage with this way of working, but in essence the Council supports the proposal.

Chapter 2 A Better Approach to Delivering Regulations and Guidance

The proposals recognise that there have been serious problems with the way some changes are introduced, and acknowledges the popular belief that the "regulations are constantly changing". Whilst the Council does not support this view, it agrees that there should be an agreed timetable for introducing change, and that this should include an adequate lead in time for training staff, and advising customers.

The Council agrees that the current document format should remain albeit the content should be improved, and that design guides for projects such as loft conversions should be provided to make it easier for DIY customers and builders to comply with the legislation.

Chapter 3 Modernising Inspection and Enforcement

There has for some time been a discrepancy in the way the local authorities and Approved Inspectors engage with their clients when it comes to inspecting works on site. There is no legislation governing an inspection framework for Approved Inspectors beyond that needed to satisfy any normal legal obligations, consequently, most if not all, Approved Inspectors adopt a risk based approach to inspections. It is the view of many local authorities that this may lead to a lower level of inspection, which in turn may lead to reduced levels of compliance on site.

The CLG appears to believe that local authorities should follow a similar risk based approach, and is proposing to amend or remove the legislation that requires people to notify the local authority when they reach certain stages of work.

The Council agrees that the current statutory duty is outdated in that the stages of work often don't relate to the project, and accepts that in some instances a risk based approach may be the way forward. However the Council is of the view that there should remain a statutory duty to notify the relevant Building Control Body (BCB), and has proposed that unique inspection frameworks are devised for each project, and these then become the statutory duty. The Council also suggests that Approved Inspector clients are subject to the same legislation.

A key proposal of this chapter is to limit the use of Building Notices. There are currently a number of statutory criteria limiting the use of Building Notices, but simplistically anyone who opts to use the local authority must submit an application via a prescribed route, either by depositing a 'Full Plans' application, or by submitting a 'Building Notice'.

Officers are concerned by the current use of Building Notices as they are not generally accompanied by plans, and are often used by householders with no prior building experience, or by builders who have little or no knowledge of the regulations which exposes the customer to a high degree of risk.

The Council supports the view that the use of Building Notices should be limited, but is concerned that there is no statutory application process for making an application to an Approved Inspector; consequently the Council has recommended that the entire Full Plans/Building Notice process should apply equally to all Building Control Bodies.

In this section the CLG proposes to further review enforcement. In 2007 the CLG consulted on increased time limits for enforcement under Section 35 of the Building Act 1984. On the 6th April 2008, the CLG introduced longer time limits for energy conservation offences, and in October 2008, longer time limits are expected for all other contraventions.

The proposal in this consultation is to extend enforcement powers further to include stop notices, and fixed penalty fines. The Council is of the opinion that subject to further details, that the proposals are supported, however it is concerned about the impact of staff issuing fixed penalty notices, and any potential cost claims if a stop notice is used. The Council is also of the opinion that Approved Inspectors should take responsibility for the enforcement of their own projects.

Chapter 4 Alternative Routes to Compliance

Traditionally anyone wishing to show compliance with the regulations must appoint a Building Control Body. Since the introduction of the replacement windows legislation in 2003, a range of competent person schemes have been approved for specialist areas of construction e.g. electrical safety, gas, oil or solid fuel boilers etc. In addition, following the introduction of sound testing, the CLG also consented to housing developers introducing 'Robust Standard Details' for party walls in lieu of regular sound testing.

The proposals, appear to seek to extend the competent person schemes further to include whole building certification, pattern books, and the appointment of an 'appointed person, on site. The Council has rejected those proposals that may undermine its own ability to compete for work, or in the future could be used to remove the need to provide 3rd party inspection. The Council, whilst it supports the current schemes does experience a number of complaints relating largely to gas boiler installations that are registered under the CORGI scheme, and is concerned about the effectiveness of such schemes as they would appear to be difficult for affected third party complainants to engage with, and enforcement powers ultimately remain with the local authority.

The Council is also concerned that customers, in particular home owners, may be faced with a wide range of competent persons schemes that they may need to engage with as well as making a Building Regulation application, and questions

whether this is cost effective or appropriate. It is important to note that the Council receives no funding to carry out enforcement activities or record self-certification notifications.

The Council has recorded its support for schemes that allow people to confidently appoint professional trades people.

The CLG is also proposing to review the appeals and determination procedure, and the Council has expressed the view that it supports this action provided the outcome is accessible to customers, is respected by all parties, and does not compromise enforcement opportunities. In addition the council supports the option of an informal "first stage" appeal process using a team formed from within the constructions industry. The Council has also suggested that the CLG gives consideration to a process similar to the 'planning aid' scheme.

Chapter 5 Improved Performance and Capacity

Members will be aware that there are currently no statutory national performance indicators for Building Control, and that for some years there has been a recognised skills shortage.

In 1999 the ODPM, now CLG, introduced a set of voluntary performance standards for Building Control bodies, and with agreement of all Building Control parties revised these in 2007. Following the publication of the 2007 indicators, this council took the view that the indicators where impractical, illogical, and difficult to manage, consequently officers have developed their own suite of more relevant indicators. The Council therefore supports the proposal to further develop the indicators and that these should have some form of statutory reporting mechanism for all Building Control bodies.

The Council has further recommended to the CLG that consideration is given to licensing all Building Control Bodies. At the moment only Approved Inspectors are licensed, and must meet certain standards, and there is an added consequence to this in that Approved Inspectors can advertise the fact that they have to meet strict standards and local authorities do not.

Since the Council believes that both local authorities and Approved Inspectors should be subject to the same legislation to prevent one gaining an unreasonable competitive advantage, licensing both groups under a single independent body makes it easier to resolve many other issues such as common complaint procedures, levels of inspection, and 'sharp' practices. It would also remove the need to operate two separate sets of legislation.

The Council has also made comment on proposals to change the Approved Inspector regulations. Whilst the document does not specifically suggest any proposals, the Council has expressed the view that this consultation should end the many inequalities that exist that disadvantage local authorities, some of which are mentioned in the main body of this report, i.e. common application and inspection procedures. However the review needs to address issues (relating to Approved Inspectors) such as advertising of fees, the ability to trade or provide

other related services especially new home warranties and fire engineering, and the ability of Approved Inspectors to sign long term contracts for repeat work.

Finally, the document seeks comment on proposals to further review the local authority charges regulations. Members will be aware that as a business unit the Building Regulation function must remain competitive and break even over any rolling three year period, consequently the fee earning function is required to identify its proper costs, and set adequate charges to recover those costs. The document makes no formal recommendations or suggestions, however the Council would welcome formal clarification on the determination of fee earning expenditure and income over and above the guidance already published.

The Council does not expect that there will be any financial or legal implications in the short term, however some of the proposals may impact on the financial viability of the Councils Building Control business, and make competition more difficult for skilled Building Control staff.

The consultation period closes on the 10th June 2008. No timescale has yet been given to the publication and implementation of any outcome from this consultation as it is expected that there will be a need to further consult stakeholders as and when work packages are developed. Members will be kept up to date on any further consultations and issues that directly affect the councils operation of its Building Control Service.

4. **FINANCIAL IMPLICATIONS [AB]**

There are no financial implications in the short term, although some of the proposed changes could lead to a further reduction in the receipt of fee income in the future. There could also be increased costs relating to further e- enabling the Service. The Authority also requires further clarification on the Charging Regulations over and above that already published.

Until these proposals are approved the full extent of the financial implications cannot be ascertained.

5. **LEGAL IMPLICATIONS [AB]**

None raised directly by the report.

6. **CORPORATE PLAN IMPLICATIONS**

The proposals meet the requirements of corporate aim number three, 'Safer and Healthier Borough'.

7. **CONSULTATION**

The DCLG has consulted all local authorities and other interested parties on its proposals contained in the consultation paper. The suggested response for Hinckley and Bosworth Borough Council is attached at Appendix 1.

8. **RISK IMPLICATIONS**

There are no risks at present as officers are only reporting on a response to a consultation exercise.

9. **RURAL IMPLICATIONS**

There are no specific rural implications as the proposals relate to the entire borough.

10. **CORPORATE IMPLICATIONS**

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

- Community Safety implications – None
- Environmental implications - None
- ICT implications – None
- Asset Management implications - None
- Human Resources implications - None

Background papers: *'The Future of Building Control'* – DCLG

'Achieving Building Standards: The Final Report' - DCLG

Contact Officer: David Darlington - Senior Building Control Surveyor - Ext 5677

Executive Member: Councillor S Bray

Annex B

RESPONSE FORM

The Future of Building Control : Consultation

Respondent Details:	
Name: David Darlington	Please return by: 10 June 2008 to: Sustainable Buildings Division Communities and Local Government Floor 2, Zone H6, Eland House, Bressenden Place, London, SW1E 5DU Email: thefuture@communities.gsi.gov.uk Fax: 0207 944 5719
Organisation: Hinckley & Bosworth Borough Council	
Address: Argents Mead, Hinckley, Leicestershire, LE 10 1BZ	
Telephone: 01455 255677	
Fax:	
e-mail: dave.darlington@hinckley-bosworth.gov.uk	
Is your response confidential? If so please explain why. (See disclaimer on page 9) Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Comments:	
Provision is made throughout this questionnaire for you to provide additional comments. If, however you wish to provide more detailed comments on any aspect of the consultation then please feel free to append additional materials and supplementary documents, clearly marked and cross referenced to the relevant questions, as necessary.	

The Department of Communities and Local Government wishes to engage better with its stakeholders by automatically notifying you of changes to the regulations and approved documents and of consultations on building regulations issues. Because of the UK Data Protection Act 1998 we need your consent before we can do this. Please indicate your consent by ticking the consent box below.

I/We hereby consent to the recording, storage and processing of my/our personal information by the Department of Communities and Local Government, and any data processor you may use, for the purpose of enabling stakeholder engagement

Organisation type (tick one box only)

House or property developer	<input type="checkbox"/>	Approved Inspector Corporate Individual	<input type="checkbox"/> <input type="checkbox"/>
Commercial Developers	<input type="checkbox"/>	Local authority – other (please specify)	<input type="checkbox"/>
Housing Association (Registered Social Landlords)	<input type="checkbox"/>	Fire & Rescue Authority	<input type="checkbox"/>
Property Management	<input type="checkbox"/>	Other non-governmental organisation	<input type="checkbox"/>
Builder – Main Contractor (commercial/volume housebuilder)	<input type="checkbox"/>	Householder	<input type="checkbox"/>
Builder – Small Builders (repairs/maintenance/extensions)	<input type="checkbox"/>	Trade body or association	<input type="checkbox"/>
Builder – Specialist Sub Contractor	<input type="checkbox"/>	Research/academic organisation	<input type="checkbox"/>
Manufacturer	<input type="checkbox"/>	Professional body or institution	<input type="checkbox"/>
Architects	<input type="checkbox"/>	Testing bodies	<input type="checkbox"/>
Civil/Structural Engineer	<input type="checkbox"/>	Specific interest or lobby group	<input type="checkbox"/>
Consultancy	<input type="checkbox"/>	Journalist/media	<input type="checkbox"/>
Individual in practice, trade or profession	<input type="checkbox"/>	Insurer	<input type="checkbox"/>
Local authority – Building Control	<input checked="" type="checkbox"/>	Other (please specify):	<input type="checkbox"/>

	<input type="checkbox"/>		<input type="checkbox"/>
	<input type="checkbox"/>		<input type="checkbox"/>
Geographical Location			
England	<input checked="" type="checkbox"/>	Wales	<input type="checkbox"/>
England and Wales	<input type="checkbox"/>	Other (please specify)	<input type="checkbox"/>

Questions
Chapter 1: A Vision for Building Control <i>Proposal 1.1: Develop a shared vision for the future of Building Control</i>
Q1. Do you agree that a vision for building control based on the boxed text in chapter 1 would be useful? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Q2. Are the areas covered in the boxed text generally the right ones? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Q3. Are there other areas a vision statement should cover? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Q4. Is what we say about quality generally correct? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Q5. Are there other issues under quality which we need to cover? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Don't Know <input type="checkbox"/> Comments: Where there is a dispute either between a homeowner or between adjacent homeowners, there is an expectation that Building Control should resolve the issues, including quality of workmanship. This 'Building Control Body' (BCB) believes that the CLG should satisfy itself that it is not in the interests of the customer that Building Control should not get involved with issues of quality by consulting with customers.
Proposal 1.1: Further comments: Q1 - This BCB is of the opinion that a clear vision for the service already exists and is largely as per the text box. What is of concern is that the DCLG/Government do not already appear to share that vision. This may explain why issues such as sustainability, drainage, contaminated land, disabled access, and fire brigade access do not have single point responsibility and overlap into Building Regulation and Planning processes, to the detriment of the Building Regulation service and customers. Q3 - See Q5 above, in addition there should be clear lines of responsibility between Building Regulations, Planning legislation and other statutory functions and this should be factored into the vision of both the Building Regulation service and all of the other statutory services. For example it is common practice for planning authorities to control Fire Brigade access, contaminated land, drainage, disabled access, and now energy efficiency through the sustainability agenda. These are all existing Building

Regulation areas and should remain solely in the Building regulation remit. This BCB believes this is confusing for customers as they are unsure who is ultimately responsible, it could lead to both a minimum and maximum standards being applied by the same council and potentially, the role of Building Regulations and Building Control officers will be undermined.

Q4 - See Q5 above

Proposal 1.2: A 'Procedural Guide' to explain what Building Control is for

Q6. Do you agree that a procedural guide which sets out the purpose of building control, the processes, role and responsibilities and a brief explanation of the regulations would be helpful?

Yes **No**

Q7. An on-line only version of the procedural guide which could be downloaded by users would be easier to keep up-to-date. Would you support this approach?

Yes **No**

Q8. Do you agree more needs to be done to communicate the benefits of using building control and that raising awareness particularly amongst those that pay the fees should be an explicit part of a building control service responsibility?

Yes **No**

Q9. Do you have any good examples of which we should be aware of organisations that should be engaged to lead in co-ordinating this work?

Yes **No**

Comments: Building Control Alliance should be used to produce any documents

Proposal 1.2: Further comments:

Q6 - The CLG already produces free documents that adequately explain the Building regulation process. It is possible that these simply require minor amendment. Procedures guides are of limited value to professionals, as it is assumed that they will have had relevant training embedded into their relevant training courses.

Q7 - Whilst the general statement is supported, a large number of customers still prefer paper copies of documents. This BCB should not be burdened by any additional printing costs, especially as the LA rather than the AI will be approached for general procedural advice.

Q8 - There is clearly a requirement to communicate what Building Control is about, and what it does, principally as domestic customers think it's a planning function. Conversely, most customers are unaware of what is "Building Control" but are aware of the role of the 'Building Inspector'. Whilst this may be a retrograde step in some respects (and would conflict with the LABC brand), perhaps BCB's should give consideration to re-naming their teams.

Proposal 1.3: To create a seamless planning and building control service

Q10. Do you think we should do more to require planning and building control services to operate as a single function to ensure better joining up for the customer?

Yes No

Q11. Do you have examples of successful close working relationships in your LA which we could disseminate?

Yes No

Comments: Development Control officers will ask for advice on Building Regulation matters that may impact on the planning application, however this is 'ad-hoc', and dependent on the case officers prior knowledge of Building Regulations.

Proposal 1.4: Other tools for a seamless service

Q12. Do you agree with our aim to further e-enable the building control system and its processes?

Yes No

Q13. What are the other barriers to more e-enabling that we need to address?

Comments: This BCB disputes the savings that can be made by e-enabling services. Whilst we readily embrace change, especially where that involves new technology, it is difficult to justify e-enabling for anything other than the deposit of applications. E-enabling has another negative aspect in that the builder no longer has an 'approved' plan on site to work to.

E-enabling services should take into account the full range of duties, the technology available, and the ability and practicality of its use on the full range of duties. Electronic documents may be more useful for major projects, and the submission of Building Notices, however this also needs to be balanced with the complexity of Building Regulation fees, and the applicants ability to submit a valid application at the first attempt. It is this BCB's experiences that many customers are incapable of determining the correct level of fees or will deliberately try to use a cheaper fee category to save money.

E-enabling services has raised LA's costs and led to the development of adhoc systems, since unlike the planning service, Building Control has not had access to substantial Improvement funds such as the Planning Delivery Grant, and in any event any BCB is restricted by the overall Council view of e-government service delivery and its corporate priorities.

Proposal 1.4: Further comments:

Q10 - A joint Building Control and Planning service would in theory remove many of the problems that LA's incur when work starts on site without a relevant Building Regulation application having first been deposited, and probably meets the needs of the domestic customer who simply wants approval. Some builders also play the system. Any merged system must give equal status to both processes, would still rely on two case officers, and may in practice be cumbersome to administer. This proposal would only be relevant on the most basic of projects. The CLG would also need to resolve how AI's would interact with the Development Control process.

Chapter 2: A Better Approach to Delivering Regulations and Guidance

Proposal 2.1: Introduce a Periodic System of Review

Q14. Do you support the introduction of a 3 yearly review of the regulations, whereby no one issue/subject will be reviewed more than once every 2 cycles, unless necessary through exceptional circumstances?

Yes No

Q15. Do you agree with our analysis of why a shorter or longer time frame does not work?

Yes No

Q16. Do you agree that we should start the first cycle of review in line with commitments to review Part L (i.e. starting in 2010)?

Yes No

Proposal 2.1: Comments:

Consideration should be given to phasing In updates within the review cycle. This BCB would find it difficult to train staff on a number of significant changes which are timed to come Into force on the same date unless there Is a significant lead In time of 9-12 months.

Proposal 2.2: Introduce a standstill period between reviews

Q17. Do you support the introduction of a 6 month standstill period?

Yes No

Proposal 2.2: Comments:

Q17 - The proposed 6 month lead In time should be considered as a minimum, and consideration given to the extent of any changes and BCB's ability to take staff out of the day-to-day routine to train.

Proposal 2.3: Rename, revise and reduce Approved Documents

Q18. Do you agree that Approved Documents should be renamed? If yes, any suggestions?

Yes No

Q19. Do you think our approach to merging and reducing the number of Approved Documents over time is the right one?

Yes No

Q20. Do you:

- Use the Approved Documents on-line?

Yes No

- Or did you purchase a Part?

Yes No

- Or a full bound set?

Yes No

Q21. Do you have other suggestions to improve the presentation and usability of these documents?

- Hard copies

Yes No

- Electronic copies

Yes No

Comment: Spiral binding of printed/hard copies Improves their usability. The Approved Documents (AD's) In general should Include a statutory performance standard along the lines of that found at the front of AD's.

Hard copies are preferred to electronic versions because of Improved usability and speed of access through familiarity. Electronic copies have a part to play In making the Information universally available to all, subject to Internet access.

Proposal 2.3: Further comments:

This BCB sees no useful purpose In re-branding the Approved Documents. Some work needs to be carried out to make customers aware that there are two sides to compliance, the actual regulations, and the Approved Documents. Many customers, Including architects regard the AD's as the law, whilst home owners and builders expect the AD's to give specific technical guidance on, for example, how to construct a wall, or roof.

AD's should be aligned with other guidance and legislation e.g. Code for Sustainable Homes and Part L, and used as the primary source for Improving building standards. It Is this BCB's view that Part L is compromised by the apparent reduced standards in the form of payback periods, and reduced compliance for conservatory type extensions. This gives a mixed message to developers.

The content of AD's should be reviewed as these have got worse since the reviews of Part L and the Introduction of Part P. Both Part L and Part P offer little In the way of

useful guidance to Building Control practitioners and customers.

Proposal 2.4: Project guides

Q22. Do you support the development of project guidance for domestic extensions and loft conversions?

Yes **No** **Don't Know**

Q23. What in your view are the other areas where compliance is thought to be low and a project guide might be of help?

Comment: This BCB Is not of the opinion that compliance with the guidance to the regulations Is low.

There exists a problem of people not making applications either because they are unaware of the legislation and their respective responsibility; they simply don't want to make an application; or know from the outset that their project won't comply. This latter point Is particularly relevant to loft conversions where the LA receives a high proportion of Regularisation applications that arise because of house sales.

A loft conversion guide would be particularly useful as well as one for a small domestic extension. This BCB would be of the opinion that the guide should cover In depth all technical aspects In detail to be of value to customers, and because of this may be difficult to Implement as standards and materials change. Consideration needs to be given to the risk that out of date guides may be used.

Proposal 2.4: Further comments:

This BCB makes no further comment.

Proposal 2.5: Establish criteria for references to third party documents

Q24. Do you find references in the Approved Documents helpful?

Yes **No**

Q25. Do you think our proposal to assess third party guidance against a set of criteria (clear and accurate, freely available on the Internet, not commercially biased) is correct?

Yes **No**

Q26. What other criteria need to be applied?

Comment: It may seem obvious, but this BCB Is of the opinion that the documents should be relevant to the project and applied In total, rather than elements used In combination with Approved Documents.

Q27. Are there other problems with third party documents which we need to address?

Comment: This BCB Is concerned that If not freely available that customers may incur further costs; therefore any third party document should be priced at a similar cost to the Approved Documents.

Proposal 2.5: Further comments:

This BCB makes no further comment.

Proposal 2.6: Make best use of the Planning Portal

Q28. Do you agree the Planning Portal needs to be re-branded to reflect its role in hosting building control content?

Yes No

Q29. Do you use the planning portal?

Yes No

Q30. If yes, do you find it useful?

Comment:

Proposal 2.6: Further comments:

The BCB makes no reference to the planning portal in the Information that it gives to customers because it believes it only adds to the confusion that exists with home owners who do not understand the difference between the Building Control and planning processes. All on line referrals are made to either the BCB's or Communities websites.

It is understood that there has been a general reluctance to re-brand the planning portal. The BCB is of the understanding that this is a licensing arrangement, and that the DCLG or whoever is responsible at a Government level, should insist on its change. Alternatively, a separate Building Control portal should be developed, perhaps using the existing Submit-a-Plan framework from which there could then be cross-links between the two portals.

Chapter 3: Modernising Inspection and Enforcement

Proposal 3.1: Provide specific guidance on risk assessing projects

Q31. Do you agree specific guidance on risk assessing projects would help?

Yes No

Q32. For what particular projects would you most welcome guidance in the first instance?

Comment: The BCB is of the opinion that the type of project is irrelevant, and is concerned that this initiative is being used to reduce inspections on site in support of AI's without there being clear and historical evidence that it is in the end users interests. It is also concerned that AI's are offering a lower cost service by carrying out fewer inspections which may not reasonably protect the end user

Further work is required to show whether there is any link between low compliance levels and risk based inspections, which result in fewer inspections. Notwithstanding the above, the BCB would welcome advice on risk assessing inspections from a liability/insurance point of view. This would be particularly useful for those times where there is a temporary recruitment/absence problem. The risk assessment guide could then be used as an industry standard.

Q33. (BCBs only) What guides do you currently use to help you risk-assess applications and draw up an inspection notification framework?

Comment: The BCB currently considers the type of inspection requests, the

likelihood of any failure affecting safety, structure, or significant parts of the regulations. It does not take into account who the builder is since in our experience all builders are capable of making mistakes particularly where their staff are transient, or there are inappropriate or ineffective management controls on site. In addition, it is the BCB's experience that most builders change details and specifications from the approved plan either unilaterally or in agreement with the owner/customer.

Proposal 3.1: Further comments:

The BCB Is In agreement that a risk assessing guide would be a useful Industry standard, however It Is concerned that Its use may lead to reduced compliance with the regulations where there Is no statutory Inspection notification framework.

Proposal 3.2: Remove Statutory Notification Stages for Local Authorities and replace with a risk based approach to inspection (a Service Plan)

Q34. Do you agree we should remove statutory notification stages?

Yes No Don't Know

Q35. Do you agree we should replace it with a requirement to issue a Service Plan?

Yes No Don't Know

Proposal 3.2: Further comments: The BCB Is of the opinion that the statutory notification stages are a vital tool, albeit one that needs amendment. All BCB's should produce an Inspection plan that Is relevant to the project or type of project, and that this plan should become the statutory notification stages. It Is the experience of this BCB that builders/owners often do not notify the authority at the relevant stages (whether statutory or not), and therefore still requires the support of the legislation In ensuring Inspections continue to be requested. Furthermore there are frequent examples where the builder has been paid and left site before formal completion has been notified to the LA, therefore the Innocent homeowner Is left to resolve a problem which Is not of their making.

Proposal 3.3: Make Issuing of Completion Certificates by Local Authorities Mandatory

Q36. Do you agree with making the issuing of completion certificates for all works mandatory, whether submitted using a Building Notice or Full Plans?

Yes No

Comment: All BCB's should Issue 'completion certificates' upon successful completion of all projects. The Importance and value of the completion certificate should be raised. It Is the experience of this BCB that many new homes are sold without the benefit of a Building Regulation completion certificate being In place, as more Importance Is placed on the warranty documentation. Since the warranty only lasts for 10 years, and does not cover life safety or energy efficiency Issues this BCB Is of the opinion that the housing market should be reminded that being able to demonstrate compliance with robust and relevant regulations Is perhaps more Important than a limited period (and cover) warranty.

Q37. Do you agree that we should introduce one mandatory inspection as part of the service plan and to support the issuing of the completion certificate?

Yes No

Q38. What might the practical implications and problems of making at least one inspection mandatory be?

Comment: There are certain situations where one Inspection Is all that Is required, e.g. Replacement windows, however for larger projects one Inspection would serve no useful purpose due to Its limited coverage. In addition, this one visit may identify issues that are incorrect, and then be costly to rectify

Proposal 3.3: Further comments:

This BCB Is disappointed to see that the CLG used poor performing local authorities as the reason for Introducing this proposal, particularly when It Is acknowledged that many AI's carry out fewer Inspections than LA's. In light of the continuing arguments over Inspection levels, this BCB believes that LA's and AI's must be subject to the same Inspection legislation and statutory duties.

Proposal 3.4: Limit Building Notices to minor works

Q39. Are we right to want to limit Building Notices?

Yes No

Q40. Are the areas we propose to require Full Plans the right ones (i.e. loft, cellar and garage conversions, erection of new buildings and extensions)?

Yes No

Q41. What might the unintended consequences be?

Comment: Without sufficient legislative controls, limiting building notices may lead some customers to use AI's who have no statutory application framework. projects may actually run smoother for the customer In that they will have an approved plan to price from, and the builder should make less mistakes. In addition BCB's will spend less time on site helping builders/DIY owners design their work.

Q42. Are there any areas we have not covered which in your view need to be considered?

Comment: Building Notices allow builders to operate unchecked, as LA's lack Inspection powers where work Is covered up. Home owners are also at risk from builders who claim to be able to build extensions etc without a plan which In turn can lead to a lower level of compliance, leave the owner exposed to enforcement, and Increased build costs. Consideration should be given to make It a statutory duty to provide a plan (or similar such Information such as structural calculations etc) with a Building Notice. Irrespective of the above, this BCB believes that It should not be possible to build a new dwelling without reference to an approved plan.

Proposal 3.4: Further comments:

The BCB also suggests that the Full Plans procedure Is reviewed, In particular that statutory decision periods are reviewed, particularly the Inability to extend the 2 month time period If requested to by the client. Also, If the purpose of this review Is to Improve compliance with the legislation, then the lack of enforcement powers where plans are approved with defects should be reviewed.

The BCB Is of the opinion that AI's should be subject to the same application legislation as LA's as this gives them a clear market advantage, which may be In contravention of competition legislation. Any other outcome Is unacceptable to this BCB.

Assuming that the Full Plans/Building Notice application procedures are applicable to all BCB's then consideration should be given to preventing work commencing on site without a Full Plans approval. The BCB Is of the opinion that It Is not In the customers Interests as mistakes can be made on site that require remedial works, It Is difficult for the LA to avoid liability where It has made Inspections prior to approval, and the

application may be rejected. It is not in the interests of any party to the building project to allow works to commence on a rejected plan. The above views are made in light of the proposal to limit the extent of Building Notices, should this not occur then any proposal would require revision as it would be possible to circumvent the Full Plans route by submitting a Building Notice.

Proposal 3.5: Allow Local Authorities to issue Stop Notices

Q43. Do you agree stop notices would be of benefit to local authorities in enforcing the building regulations?

Yes No Don't Know

Q44. In what circumstance might they most usefully be applied and what are the perceived difficulties?

Comment: There is insufficient information in this review to determine how a stop notice would work, and consequently the implications for the enforcement authority. The BCB is concerned that where a stop notice is issued there may then be a dispute over whether the works comply with the regulations, and consequently the LA may receive compensation claims.

The use of a stop notice could be useful where no application has been received or deposited with the LA, or where there is a dispute between adjacent owners where the building work is unreasonably impacting on the neighbour resulting in their existing building being made defective (or more defective than it currently is)

Proposal 3.5: Further comments:

This BCB continues to be concerned that the local authority continues to be tainted by the impression that it is an enforcement body and that AIs are not. It is this BCB's experience that AIs rarely revert projects to the LA for enforcement reasons (and this experience dates back to the introduction of AIs in the mid 1980's). It is therefore our belief that the threat of enforcement may drive customers' towards the AI process, consequently it strongly believes that AIs should be responsible for all aspects of enforcement irrespective of their contractual position.

Proposal 3.6: Allow Local Authorities to issue fixed monetary penalties

Q45. Do you agree the threat of a Fixed Monetary Penalty could act as a useful deterrent to breaches of the regulations?

Yes No

Q46. If the power to issue fines existed how might local authorities most appropriately apply them? What criteria should we consider using?

Comment: The BCB has not formed an opinion on this matter, and resolves to let the review process determine a fair and equitable system.

Proposal 3.6: Further comments:

The BCB is concerned that surveyors will be exposed to threats and intimidation by builders and homeowners, and that future work may be compromised by competition. It is not convinced that a fixed penalty notice is the right vehicle for enforcement, as it could lead to the defective work still standing, especially if the cost of the remedial works exceeds the level of fine.

That said, there must a proper process of ensuring that building work complies with the regulations. Consideration should be given to ensuring that Section 36 Notices can be served on the builder as well as the owner.

This BCB also repeats It's assertion that AI's should be responsible for their own enforcement (proposal 3.5)

Proposal 3.7: Extending time for prosecution

Q47. Do you agree that it would be useful to set the enforcement action time limits for all forms of formal enforcement at two years?

Yes **No**

Comment: Most work that could and should be enforced Is carried out without the LA's knowledge; therefore the 6 month rule Is unworkable In a small authority. In addition, the enforcement time limits should be retrospective to ensure widespread compliance with the regulations. Consideration should also be given to remedial works/regularisation being carried out to current standards rather than the standards relevant at the time. This would ensure a modern standard Is met, especially where significant work Is required to show compliance.

Chapter 4: Alternative Routes to Compliance

Proposal 4.1: Improvements to the Competent Persons Schemes

Q48. Are we right to continue with our current approach to encourage more schemes in existing areas and to continue not to approve Competent Persons schemes in the areas of structure, fire and underground drainage as built?

Yes **No**

Q49. Do we need to do more to improve existing systems than our current proposals (i.e. to require UKAS accreditation, encourage publication of leaflets, resolving data transfers and addressing difficulties)?

Yes **No**

Comment: As a LA we are frequently called to Installations carried out by competent persons that do not meet the requirements of the legislation. This BCB does not have the resources to undertake widespread enforcement, and Is of the opinion that the competent person schemes should deal with all aspects of remedying defective work.

Proposal 4.1: Further comments:

This BCB Is of the opinion that further competent person schemes may undermine the ethos of third party Inspection, and If extended, would lead to the Building Control business becoming unsustainable, and causing further recruitment and retention problems. The BCB Is also of the opinion that a wide range of competent person schemes may not be cost effective for the customer If they have to engage multiple schemes, and the review should consider whether a single approval/Inspection body that already exists (LABC/AI) supported by an Insurance guarantee scheme would not be a better, more efficient solution.

This BCB supports the registration of builders and the various tradesmen If It leads to higher skill levels and greater accountability for the customer.

Proposal 4.2: Investigate the case for other forms of Certification

Q50. Do you see any merit in whole building certification?

Yes No

Q51. Do you think it is appropriate to develop third party certification (certification of parts of a project) but only within the Competent Person Scheme framework?

Yes No

Comment: This BCB is of the opinion that third party certification already exists in the form of the current LABC/AI Building Control process. Building Control bodies simply require assistance with changing to meet the demands of legislation changes in the form of adequate financial and staff resources and proper training. However, there is some merit in 'CORGI' type elements of construction provided they do not add significant cost to the project.

Q52. If yes, in what areas?

Comment: Specialist heating and ventilation schemes

Proposal 4.2: Further comments:

The BCB acknowledges that it may not be appropriate to train its staff to fully understand specialist services such as mechanical heating & ventilation. However, if it extends the competent persons schemes into other similar areas, consideration needs to be given as to how BCB's can remain self-financing and be able to recruit and retain sufficient numbers of suitably skilled Building Control Officers, because if LA's become nothing more than a place to deposit self-certification certificates, staff will leave.

Proposal 4.3: Further encourage the Appointed Person role

Q53. Do you think we should regulate for the Appointed Persons role or simply promote the adoption of this role as good practice?

- Regulate?

Yes No

- Promote Good Practice?

Yes No

Comment: This BCB acknowledges that an Appointed person may be a useful 'tool' for developers, but is concerned that it could be used in future years to remove the need for third party inspection, which in turn would cause further problems with recruitment and retention as specialist Building Control staff may be enticed away from employment with traditional BCB's

This role is or has been performed by the site manager or engineer and currently works in a satisfactory way. The DCLG must satisfy itself that this is not preferable (on large schemes) to the BCB locating a dedicated BCO on site for the duration of the project. This is a model that South Derbyshire District Council adopted for the building of the Toyota factory on the outskirts of Derby.

Proposal 4.4: Extension of the Pattern Book approach

Q54. Should the pattern book approach be extended?

Yes No

Q55. What areas do you think the pattern book approach could cover?

Comment: This BCB does not see any benefit to a pattern book especially where It Is Introduced to negate the need for on site testing of 'as built' construction.

Q56. Do you agree that a pattern book scheme could be developed to cover air-tightness testing and accredited details for Part L in dwellings?

Yes **No** **Don't Know**

Comment: The BCB believes that there Is Insubstantial evidence to support the fact that a pattern book such as robust standard details will lead to a greater level of compliance as so few are actually tested on site. However this BCB Is of the opinion that a 'pattern book' should be returned to all Approved Documents and that random testing where relevant should back this up.

Proposal 4.5: A Fast Track Dispute Resolution Service and Modernised System of Appeal

Q57. Do you agree a voluntary industry led dispute resolution scheme, with independent panel members, would be beneficial to users of the building control system?

Yes **No**

Q58. Have you had a technical dispute in the last year which you would have taken to this scheme had it existed?

Yes **No**

Q59. What would deter you from using such a scheme?

Comment: This BCB would be deterred from using such a scheme If It Impacted on statutory enforcement or decision periods, or was not respected by either party.

Q60. Do you agree that the current statutory determination and appeal procedures are in need of reform?

Yes **No**

Q61. (LAs only) How many formal relaxation or dispensation applications have you received in the last three years and how many of these have you consented to?

Comment: This LA has received no formal applications to relax or determine elements of work. However It Is aware that some Approved Inspectors relax requirements for which they have no authority to do so, e.g. the provision of lifts In commercial buildings.

Many applicants/agents will prefer to change their designs (to show compliance) as they do not allow enough lead In time to go through the relaxation/dispensation procedure, Indeed It Is unusual for work subject to a full plans application to have not started.

Q62. Would repealing the right to appeal to the Secretary of State against a LA's refusal to relax or dispense with a requirement of the building regulations cause you any difficulties?

Yes **No** **Don't Know**

Q63. Do you consider that continued recourse to the Secretary of State to resolve disputes where necessary is beneficial?

Yes **No** **Don't Know**

Q64. Would you support a provision giving a new right of appeal to the Secretary of State along the lines outlined in proposal 4.5, or would you support the other options suggested?

- Secretary of State?

Yes No

- Other options?

Yes No

Q65. If you support the other options, do you have a preference as to which option you support, and why?

Comment: This BCB is confused by this question as the review only indicates one other option. It supports the idea of a voluntary body backed up by a statutory scheme, however consideration needs to be given to the fact that building regulation applications are regularly made late in the project plan, and there may not be time to use both procedures. This BCB is concerned that the wording of the review indicates that it applies to local authorities only, and is of the opinion that all relaxation, dispensation, and appeal procedures should apply equally to LA's and AI's.

Q66. Do you have any other proposals on how best to resolve building control disputes?

Yes No

Comment: The CLG may wish to consider a variation of the Planning systems Local Review Board scheme.

Proposal 4.5: Further comments:

This BCB supports the retention of a statutory procedure that binds all parties to the outcome, and that procedure should apply equally to all BCB's. See also 5.2 below.

Chapter 5: Improved Performance and Capacity

Proposal 5.1: Embed and Develop the Building Control Performance Indicators

Q67. Do you agree that we should further develop the Building Control Performance Indicators?

Yes No

Q68. Do you have any further suggestions on how to improve the monitoring and performance of Building Control?

Comment: This BCB supports the view of continuous improvement however it disputes the implication that building control does not perform well or has become detached from its customers. The Building Control Performance Standards are a poor attempt at providing meaningful performance standards, consequently, this BCB is of the view that any indicators should be statutory, and relate only to plan checking and site inspection performance. Any other criteria is difficult to measure, largely meaningless, and not cost effective.

Proposal 5.2: Strengthen the overarching Performance Management System

Q69. Do you agree some form of peer review/audit for the reasons described here would be helpful?

Yes No

Comment: In lieu of any other formal process, this BCB is of the opinion that a peer review or audit will offer a good means of maintaining and demonstrating improvement, however as an LA BCB, the service may be disadvantaged by corporate and political priorities, and a poor performing BCB may be tolerated if it

allows the LA to focus its resources elsewhere. Consequently, this BCB is of the opinion that all BCB's should be licensed by the CIC. It believes that the CIC should be used to set performance standards, minimum staffing levels, and administer dispute resolutions. In addition the CIC could be used to randomly test projects for compliance with the regulations and challenge BCB's where failings are identified.

This BCB takes the view that all Building Regulation legislation should apply equally to both LA's and AI's, and consequently makes the suggestion of licensing all, in the spirit of that view.

Proposal 5.3: Continue to promote industry standards in a competitive market place

Q70. Do you think these complaints procedures are fit for purpose?

Yes No

Q71. How might they be improved?

Comment: There are, as the review indicates, currently two systems with no commonality. AIs are subject to review by the CIC, whilst LA's can be subject to the Ombudsman procedure. This BCB is of the opinion that these two systems may not provide an equal level of responsibility or liability, and that there should be a central body responsible for both. See also comment to 5.2, as this would sit well with a fully licensed Building Control system.

This BCB has experience of making complaints about AIs supplanting local authorities, however it finds that the CIC often sides with its own members, consequently the DCLG must change the regulations allowing an AI to submit an Initial Notice (IN) when a Full Plans (FP) or Building Notice (BN) already exists, but prevents a LA from submitting an FP or BN when an IN has been submitted. Similarly, the building owner and not a contractor must submit all applications so that they are fully aware of the decisions that have been made

Proposal 5.4: Promote Shared Approaches to Working

Q72. Are there other examples of positive working relationships of which you are aware and which we might disseminate as examples of co-operation and good practice in providing a modern building control service?

Yes No

Comment: There are many examples of local authorities grouping together to provide a joint Building Control service. The DCLG should give consideration to a statutory arrangement on perhaps a county or regional basis to overcome the many advantages AIs have over LA's, and the many hurdles that exist which impede local authorities wanting to set up joint working bodies.

Proposal 5.5: Enabling a "level playing field"

Q73. Do you welcome the move to review the AI Regulations in the following way:

- Remove the need for a signature of the person doing the work on an initial notice
Yes No
- Remove the need for a signature on the insurance certificate
Yes No
- Simplify the approvals process by establishing a single class of approved inspector
Yes No
- Clarification of the regulation 10 requirement
Yes No
- Removal of some stages of statutory approvals
Yes No

Q74. Are there other areas covered by the AI Regulations which you think should be covered by the above review?

Yes No

Comment: This BCB is of the opinion that there should be no need to have separate regulations for AIs, and that this review should resolve to bring the existing legislation in line with the duties imposed on LA's in terms of application types, decision time

periods, site Inspection regimes, and completion certificates. Similarly, many AI's gain a competitive advantage by their 'ability to trade' or provide similar services to customers at an earlier stage (e.g. warranties, fire safety engineering, and general design work), operate over a wider geographical area, not be subject to political leadership, work for an organisation focused on Building Control, not disclose fee levels etc, and that any review should remove or equalise these clear and significant advantages.

Proposal 5.6: Review of the local authority Building Control Charges Regime

Q75. Do you agree that the current local authority building control regime is inflexible and restrictive and is in need of review, particularly with regard to competition with approved inspectors?

Yes No

Q76. Is there evidence that surpluses derived from local authority building control charges income is being used to fund other services within LAs?

Yes No

Comment:

Q77. Do you believe that the proposals identified in paragraphs 271 and 272 will provide the flexibility and transparency sought?

Yes No

Comment: This BCB is of the view that like AI's, It should have the flexibility to charge what it likes for any aspect of the service provided the service at least breaks even and that fee earning accounts should be ring fenced by legislation. The legislation should support and protect the LA's Building Regulation activity. Furthermore, the legislation should be used to ensure that both LA's and AI's publish their charging schemes.

This BCB would also welcome clarification as to what extensions are exempt fees for disabled persons as the legislation is open to misinterpretation. The authority has experience of applicants wanting to re-develop their properties for the benefit of all occupiers, but rely on the disabled person within the household to try and claim an exemption from all fees.

Please make any further additional comments here, ensuring that you clearly refer to any relevant questions or responses submitted above.

Any other comments:

This BCB is disappointed that the consultation document appears to pick fault with local authorities and their statutory procedures, and is not aimed at all Building Control Bodies. In addition it does not seek to level the playing field by changing any of the competition issues that LA's have raised since the introduction of AI's in the mid 1980's.

PLANNING COMMITTEE – 6 MAY 2008

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES
RE: APPEALS LODGED AND DETERMINED REPORT

1. **PURPOSE OF REPORT**

To inform members of appeals lodged and determined since the last report.

2. **RECOMMENDATION**

That the report be noted.

3. **BACKGROUND TO THE REPORT**

3.1 **Appeals Lodged**

3.1.1 Appeal by Mr R Knowles against the refusal of planning permission (07/00386/FUL) for the retention of a balcony, metal flues and two windows at Haywain Barn, Insleys Lane, Shackerstone (written representations).

3.1.2 Appeal by Adept Care Group against the refusal of planning permission (07/01066/FUL) for the erection of a 60 bedroomed care home at land adjoining the Moat House Retirement Home, New Road, Burbage (informal hearing).

3.2 **Appeals Determined**

3.2.1 Appeal lodged by Mr R Petty against the refusal of planning permission (07/00620/ful) for the proposed demolition of existing hotel and two flats and the erection of twenty four residential apartments including a vehicular access and parking at Elmlea, Ashby Road, Hinckley.

3.2.2 The Inspector considered the issues with this case were the effect of the proposal on the character and appearance of the area and the effect of the proposal on the living conditions of the occupiers of 1 Ashby Road and 2 Middlefield Lane. The Inspector noted both the opinion of the Local Planning Authority and the appellant that the existing building was a landmark feature that acts as a gateway to the Druid Quarter Conservation Area. However the Inspector concluded that the design of the proposal would adequately reflect the essence of the existing building, and the design features incorporated into the proposal will make good use of the available land, retain important landscaping features and provide a suitable landmark development in this prominent location. With regards to the effect of the development on the occupiers of neighbouring properties, the Inspector considered that although the development would be 3 metres closer to the south gable of 1 Ashby Road, the windows in the development would be obscurely glazed and the development would overall be lower than the original building. This, along

with the removal of two parking spaces that would have been located close to the side gable of 1 Ashby Road led to the Inspector concluding that the development would not have a detrimental effect on the occupiers of this property. In the case of 2 Middlefield Lane, the Inspector considered that the development would not lead to any loss of privacy or increased levels of noise and disturbance to the occupiers of the property. This is due to the areas of garden adjacent to the boundary of the development not being the closest to the rear 2 Middlefield Lane where the greatest level of privacy should be expected. The Inspector also noted the existence of a detached garage and a summerhouse between the development and 2 Middlefield Lane, which along with the existence of trees will provide adequate screening from the development.

Inspectors Decision

3.2.3 Appeal Allowed (Member Decision).

3.2.4 Application for full costs in relation to the appeal by Mr R Petty against the refusal of planning permission (07/00620/ful) for the proposed demolition of existing hotel and two flats and the erection of twenty four residential apartments including vehicular access and parking at Elmlea, Ashby Road, Hinckley.

3.2.5 After considering the submissions from the appellant and the response from the Local Planning Authority, the Inspector held that the Local Planning Authority did not act unreasonably and the appellant has incurred no unnecessary expense.

3.2.6 Therefore no award of cost granted.

3.3 Appeal by Speymill OOD Ltd against the refusal of planning permission (07/00173/FUL) for the conversion of existing buildings to form an equestrian workers dwelling at White Gables Farm, Fenn Lane, Fenny Drayton.

3.3.1 The Inspector considered the main issue with this appeal is whether the proposed development satisfies the tests for agricultural workers dwellings set out in Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7). PPS7 supports the re-use of existing buildings in the Countryside if the development is required to support existing agricultural and other activities. The Inspector considered that the level of equestrian activity currently taking place on the site requires a full time worker to live on the site. The Inspector also noted that the occupation of the existing farmhouse, White Gables is not restricted to those working in agricultural or equine related activities, and held that it had become severed from the original agricultural unit. As the existing farmhouse could be sold on the open market and the scale the equine business is expanding with increasing numbers of foal born each year, the Inspector concluded that the proposed dwelling is necessary to ensure the proper running of the equine business.

3.3.2 Therefore no award of costs granted.

- 3.3.4 Application for costs made by the Local Planning Authority in relation to the appeal by Speymill OOD Ltd against the refusal of planning permission (07/00173/FUL) for the conversion of existing buildings to form an equestrian workers dwelling at White Gables Farm, Fenn Lane, Fenny Drayton.
- 3.3.5 After considering the submissions from the Local Planning Authority and the response from the appellant, the Inspector held that unreasonable behaviour resulting the unnecessary expense had not been demonstrated in this case.
- 3.3.6 Therefore no award of costs granted.
- 3.4.1 Appeal by Miss Juliet Perry and Mr David Leslie against the refusal of planning permission (06/01427/FUL) and listed building consent (06/01428/LBC) for a proposed extensions and alterations to the rear of the existing house at 26-28 The Green, Church Street, Burbage
- 3.4.2 The appellants argument was centred on the precedent set by the neighbouring properties extension, which would in their view, continue the line across the backs of the houses. The Inspector considered that the extension next door did not create precedence as the extension pre-dates current legislation. He also considered that the extension next door demonstrated the harm the proposal would have on the architectural interest of the listed building. There was no justification of need put forward by the appellants which would, in the inspectors view, outweigh the harm the proposal would have on the historical interest of the Listed Building.

Inspectors Decision

- 3.4.3 Appeal dismissed (Officer Recommendation)

4. **FINANCIAL IMPLICATIONS (AB)**

- 4.1 All costs incurred and costs recovered will be met from existing 2008/2009 Revenue Budgets.

4. **LEGAL IMPLICATIONS (AB)**

None

5. **CORPORATE PLAN IMPLICATIONS**

This document contributes to Strategic Aim 3 of the Corporate Plan.

- Safer and Healthier Borough

6. **CONSULTATION**

None

7. **RISK IMPLICATIONS**

None

8. **RURAL IMPLICATIONS**

None

9. **CORPORATE IMPLICATIONS**

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

- Community Safety Implications None relating to this report
- Environmental Implications None relating to this report
- ICT Implications None relating to this report
- Asset Management Implications None relating to this report
- Human Resources Implications None relating to this report

Background Papers: Appeal Decisions

Contact Officer: Louise Winson (ext 5898)

PLANNING COMMITTEE - 6 MAY 2008

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

RE: APPEALS PROGRESS

1. PURPOSE OF REPORT

- 1.1 To inform Members of the progress on appeals - details of which are attached.

2. RECOMMENDATION

- 2.1 The report be noted.

3. FINANCIAL IMPLICATIONS

- 3.1 None

Background Papers:

Contact Officer: Tracy Darke, extension 5692

PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 25.04.08

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
Planning	TM	07/01155/FUL	IH	Cotswold Estates Ltd	Dennis House 4 Hawley Road Hinckley	Awaiting Start Date	
Planning		07/00968/FUL	WR	Mr and Mrs J Farrell	54 Sappcote Road Burbage	Awaiting Start Date	
08/00009/PP	SH	07/01066/FUL	IH	Adept Care Group	Moat House Retirement Home New Road Burbage	<i>Start Date</i> Statement Comments	10.04.08 22.05.08 12.06.08
08/00008/PP	LF	07/00386/FUL	WR	Roy Knowles	Haywain Barn Insleys Lane Shackerstone	<i>Start date</i> Comments	17.03.08 19.05.08
08/00007/PP	RW	07/01124/FUL	WR	Mr Marcus Cobley	11 Willow Tree Close Barwell	<i>Start Date</i> Awaiting Decision	14.02.08
08/00005/PP	CH	07/01305/COU	PI	Joanna Squires	Land Adjacent to Lodge Farm Wood Road Nailstone	<i>Start Date</i> Proof of Evidence Inquiry Date	08.02.08 13.05.08 03.06.08
08/00004/ENF	JC	07/00031/BOC	PI	Patrick Godden	Tomlinsons Boarding Kennels & Canine Centre Upper Grange Farm Ratby Lane Markfield	<i>Start Date</i> Proof of Evidence Inquiry Date	31.01.08 07.05.08 04/05.06.08 (2 days)
08/00003/PP	CH	07/00471/FUL	WR	Scott Halborg	7 Butt Lane Close Hinckley	<i>Start Date</i> Awaiting Decision	05.02.08
08/00001/PP	LF	07/00480/OUT	IH	Mr K Thorpe	Spinney Bank Farm Higham Lane Stoke Golding	<i>Start Date</i> Hearing Date	07.01.08 19.06.08
07/00032/PP	RW	07/00188/FUL	IH	Yeoman Street Development Co Ltd	Caldecott House Leicester Lane Desford	<i>Start Date</i> Awaiting Decision	01.08.07

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
07/00034/TREE	DB	07/00442/TPO	WR	Mr & Mrs AG Rossa	14 St Michaels Close Markfield	<i>Start Date</i> Awaiting Decision	28.08.07
07/00046/PP	TM	07/00529/FUL	PI	Tungsten Properties Ltd	Land Adjacent to 391 Coventry Road Hinckley	<i>Start Date</i> Proof of Evidence Inquiry Date	12.11.07 20.05.08 17.06.08
07/00048/ENF 07/00049/ENF 07/00050/ENF	JC	07/00095/ UNAUTH	PI	Mr Vero	Land at Orchard Farm Ashby Road Cadeby Hinckely	<i>Start Date</i> Proof of Evidence Inquiry Date	09.11.07 27.05.08 24.06.08

PLEASE NOTE: ALL LOCAL INQUIRIES MUST BE ARRANGED WITH DOE THROUGH THIS OFFICE

DECISIONS RECEIVED FOR THE FOLLOWING APPEALS

07/00021/PP	CH	07/00173/FUL	IH	Speymill Odd Ltd	White Gables Farm Fenns Lanes Fenny Drayton	ALLOWED	27.03.08
Enforcement	JC			Teresa Andrews	Land Adjacent Back Lane Market Bosworth	Appeal time expired	10.04.08
07/00029/PP 07/00030/LB	BW	06/01427/FUL 06/01428/LBC	IH	Juliet Perry David Leslie	The Green 28 Church Street Burbage	DISMISSED	09.04.08
08/00002/PP	LF	07/00488/FUL	WR	Ms L Kimberley	19 Main Street Congerstone Nuneaton	DISMISSED	21.04.08

PLANNING COMMITTEE AGENDA - 6 May 2008 - NUMERIC INDEX

REF. NO.	APPLICANT	SITE	ITEM	PAGE
08/00137/COU	Mr E Kilpatrick	Burbage Liberal Club 21 Lutterworth Road Burbage Hinckley Leicestershire	01	
08/00141/FUL	Wyevale Garden Centres Ltd	Woodland Nurseries Ashby Road Stapleton Leicester Leicestershire	02	
08/00154/FUL	David Wilson Homes (East Midlands)	111 Stapleton Lane Barwell Leicester Leicestershire LE9 8HE	03	
08/00160/FUL	Mr T Abbott	Land Rear Of Breach Farm Breach Lane Earl Shilton Leicestershire	04	
08/00187/COU	Crown Crest (Leicester) Plc	Timken Desford Steel Limited Desford Lane Kirby Muxloe Leicester Leicestershire	05	
08/00221/FUL	Sycamore Developments	3 Cleveland Road Hinckley Leicestershire LE10 0AJ	06	
08/00238/FUL	Mr And Mrs M Inch	The Old Coach House 24 Wykin Lane Stoke Golding Nuneaton Leicestershire	07	
08/00255/FUL	Mrs V Garland	Land At Ratcliffe House Ratcliffe House Lane Ratcliffe Culey Leicestershire	08	
08/00326/FUL	Mrs J Axon	7 Tudor Grove Groby Leicester Leicestershire LE6 0YL	09	