

Date: 24 April 2009

To: All Members of the Planning Committee

Mr R Mayne (Chairman)	Mr WJ Crooks	Mr K Nichols
Mr DW Inman (Vice-Chairman)	Mrs A Hall	Mr LJP O'Shea
Mrs M Aldridge	Mr P Hall	Mr BE Sutton
Mr JG Bannister	Mr CG Joyce	Mr R Ward
Mr CW Boothby	Dr JR Moore	Mrs BM Witherford
Mr JC Bown	Mr K Morrell	

Copy to all other Members of the Council

(other recipients for information)

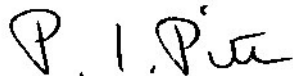
Dear Councillor

There will be a meeting of the **PLANNING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **TUESDAY, 5 MAY 2009** 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

5 MAY 2009

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 10 March 2009 attached marked 'P67'.

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.

6. DECISIONS DELEGATED AT PREVIOUS MEETING

Director of Community and Planning Services to report on any decisions delegated at the previous meeting which had now been issued.

RESOLVED

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

Schedule of planning applications attached marked 'P68' (pages 1 – 75).

RESOLVED

8. APPEALS LODGED AND DETERMINED

Report of the Director of Community and Planning Services attached marked 'P69' (pages 76 – 78).

RESOLVED

9. APPEALS PROGRESS

Report of the Director of Community and Planning Services attached marked 'P70' (pages 79 – 82).

RESOLVED

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

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

7 APRIL 2009 AT 6.33 PM

PRESENT: MR R MAYNE - CHAIRMAN
MR DW INMAN - VICE-CHAIRMAN

Mrs M Aldridge, Mr JG Bannister, Mr CW Boothby, Mr JC Bown, Mr WJ Crooks, Mrs A Hall, Mr P Hall, Mr CG Joyce, Dr JR Moore, Mr K Morrell, Mr K Nichols, Mr BE Sutton, Mr R Ward and Mrs BM Witherford.

In accordance with Council Procedure Rule 4.4 Mr PR Batty and Mr PS Bessant also attended the meeting.

Officers in attendance: Mr C Merriman, Mr P Metcalfe, Miss R Owen, Mr TM Prowse, Mr M Rice and Mr S Smith.

502 **APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Mr LJP O'Shea.

503 **MINUTES (P60)**

Attention was drawn to an error in minute 462 on page 233, - the final sentence of the second paragraph should read 'Mrs Hall and Mr Inman stated their intention to speak on the latter...'. It was also clarified that minute 465(e) should refer to Mr Inman speaking as a Burbage Parish Councillor, not a Ward Councillor.

It was moved by Mr Nichols, seconded by Mr Crooks and

RESOLVED – the minutes of the meeting held on 10 March 2009 be confirmed subject to the above amendments and signed by the Chairman.

504 **DECLARATIONS OF INTEREST**

Mrs Aldridge, Mr Boothby, Mr Morrell and Mr Sutton declared a personal interest in application 09/00137/FUL as the applicant was a close associate.

Mr Sutton declared a personal and prejudicial interest in report P66 as his property was the subject of the report.

505 **DECISIONS DELEGATED AT PREVIOUS MEETING**

There were no delegated decisions to report.

506 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P61)

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.

- (a) 09/00031/FUL – Erection of two dwellings and formation of access, 53 Markfield Road, Groby – Mr K Burrows

It was then moved by Mrs Aldridge, seconded by Mr Nichols and

RESOLVED – the application be permitted subject to the conditions contained within the officer's report.

- (b) 09/00044/FUL – Erection of 1 dwelling, double garage and car port, 1 Moorland Close, Market Bosworth – Mr D Ryan

Mr Batty left the meeting at 6.55pm.

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

RESOLVED – subject to the objection from the Head of Corporate and Scrutiny Services (Green Spaces) being withdrawn, the Director of Community and Planning Services be granted powers to issue planning permission subject to the conditions contained within the officer's report and late items. Failure to remove the objection by 15 April 2009 may result in the application being refused.

- (c) 09/00067/OUT – Demolition of 8 Birch Close and erection of 15 new dwellings and formation of new access, Land rear of 8 Birch Close, Earl Shilton – Secondrebel Ltd

Members expressed concern with regard to the density of the proposed development. It was moved by Mr Bown and seconded by Dr Moore that the application be refused. Upon being put to the vote, the motion was LOST.

It was moved by Mr Sutton, seconded by Mr Bannister and

RESOLVED – subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section III of the Local Government Act 1972 towards the provision and maintenance of public play and open space facilities, health facilities, library facilities, civic amenity facilities and policing requirements, the Director of Community and Planning Services be granted powers to issue outline planning permission subject to the conditions contained in the officer's report. Failure to complete the Agreement by 1 May may result in the application being refused.

- (d) 09/00115/FUL – Erection of new dwelling, Land at rear of 116 to 126 Stamford Street, Ratby – Mr G North

Mr Joyce left the meeting at 7.47pm.

Concern was expressed with regard to loss of privacy of neighbouring residents. It was moved by Mr Sutton and seconded by Mr Bown that a condition be added to require obscure glazing to the window overlooking the neighbour's garden.

Mr Joyce returned at 7.50pm.

It was moved by Mr Sutton, seconded by Mr Bown and

RESOLVED – the application be permitted subject to the conditions contained within the officer's report and the abovementioned additional condition.

- (e) 09/00137/FUL – Extensions and alterations to dwelling, 3 Bufton Lodge, Botcheston Road, Newtown Unthank – Mr & Mrs P Bessant

Mr Bessant spoke as the applicant on this application then left the meeting at 8.07pm during discussion and voting thereon.

Mr Hall left the meeting at 8.08pm.

On the motion of Mr Crooks, seconded by Mr Bannister, it was

RESOLVED – the application be approved subject to the conditions contained within the officer's report.

Messrs Bessant and Hall returned at 8.10pm.

- (f) 09/00144/FUL – Alterations to roof of dwelling, 35 Wykin Lane, Stoke Golding – Mr Derrick Waring

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

RESOLVED – 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 contained within the officer's report.

- (g) 09/00164/FUL – Demolition of existing sheds and erection of detached garage and study, 33 Barton Road, Barlestone – Mr Paul Kendall

On the motion of Mr Ward, seconded by Mr Bannister it was

RESOLVED – 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 refuse permission for the reasons contained within the officer's report.

Mr Bown left the meeting at 8.17pm and returned at 8.20pm.

507 CHANGES TO THE PLANNING APPEAL PROCESS (P62)

The Committee was presented with a report which provided information on changes to the planning and enforcement appeal procedure which came into force on 6 April 2009. Some changes were highlighted including the ability to claim costs in written representation cases, the need for more detailed minutes where the recommendation is overturned, and the need to write reports with the Inspector in mind. It was stated that more comprehensive reports were already being prepared on delegated applications.

It was moved by Mr Crooks, seconded by Mr Nichols and

RESOLVED – the report be noted.

508 DRAFT RATBY VILLAGE DESIGN STATEMENT – SUPPLEMENTARY PLANNING DOCUMENT (P63)

Members received a report which presented the Draft Ratby Village Design Statement Supplementary Planning Document (SPD) and Sustainability Appraisal and recommended that consultation be commenced on these.

RESOLVED – the consultation period on the Draft Ratby Village Design Statement SPD and Sustainability Appraisal be endorsed.

Mr Boothby left the meeting at 8.25pm and returned at 8.26pm.

509 APPEALS LODGED AND DETERMINED (P64)

A summary was submitted of appeals lodged and determined since the last meeting. It was noted that paragraph 3.2.3 should read Appeal dismissed (Member decision).

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

RESOLVED – the report be noted.

510 APPEALS – PROGRESS (P65)

A schedule was submitted indicating the stages that various appeals against planning decisions had reached. It was moved by Mr Nichols, seconded by Mr Crooks and

RESOLVED – the report be noted.

511 MATTERS FROM WHICH THE PUBLIC MAY BE EXCLUDED

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

RESOLVED - in accordance with Section 100A(4) of the Local Government Act 1972 the public be excluded from the undermentioned item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 3 and 10 of Part I of Schedule 12A of that Act.

Having declared a personal and prejudicial interest in the following item of business, Mr Sutton left the meeting at 8.29pm.

512 DEED OF VARIATION (P66)

Members received a report which gave consideration to a proposal to vary the terms of a Section 106 Agreement in relation to planning application 07/01424/FUL.

RESOLVED – The Director of Community and Planning Services be authorised to enter into an agreement with the appropriate parties to amend the Section 106 Agreement in relation to Site 4 to the extent that the two permanent buildings and the hardsurfacing on Site 4 be allowed to remain subject to:

- (i) the Director of Community and Planning Services being satisfied that the obligations set out in the Agreement dated 28 February 2008 and made between the Borough Council, Kelside Limited, Brian Sutton, Veronica Sutton, Stephen Ball and Amalgamated Markets Services Limited (the Section 106 Agreement) in relation to Sites 2 and 3 referred to therein, have been fulfilled; and
- (ii) further to the obligations in the Section 106 Agreement in relation to Site 4 referred to therein having been fulfilled save for the retention of the two permanent buildings and hardsurfacing; and
- (iii) the appropriate parties to the Agreement covenanting with the Borough Council
 - (a) to use Site 4 and the two permanent buildings only for the purposes of agriculture or forestry, and
 - (b) to pay the Council's reasonable costs in preparing and concluding the amending agreement.

(The meeting closed at 8.40pm)

PLANNING COMMITTEE AGENDA - 5 May 2009 - NUMERIC INDEX

REF. NO.	APPLICANT	SITE	ITEM	PAGE
09/00280/COU	Mr Robert Hodgetts (Snr) And Others	Land To The North Of Bagworth Road Nailstone	01	01
09/00207/TEMP	Mr Paul Finney	Land At Heath Road Bagworth	02	09
09/00267/GDOT	Vodafone	Street Verge Rugby Road Burbage	03	14
09/00142/LBC	HBBC And North Warwickshire And Hinckley College	Atkins Bros Ltd Lower Bond Street Hinckley	04	18
09/00080/FUL	Hinckley Club For Young People	Richmond Park Richmond Road Hinckley	05	24
09/00140/REM	Jelson Ltd	Land Outlands Drive Hinckley	06	34
09/00176/COU	Keys Childcare Ltd	Wiseacre Leicester Lane Desford	07	42
09/00178/FUL	Mr Tony Abbott	Breach Farm Breach Lane Earl Shilton	08	50
09/00237/FUL	Mr G Wragg	Common Farm Barton Road Carlton	09	55
09/00246/TEMP	Mr C Klenk	Stanmaur Farm Breach Lane Earl Shilton	10	61
09/00255/FUL	Mr Chris Jackson	81 Florian Way Hinckley	11	68
09/00257/COU	Mr S Woodward	Odstone Hall Hall Lane Odstone	12	71

REPORT P68

PLANNING COMMITTEE

5 May 2009

**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: 09/00280/COU
Applicant: Mr Robert Hodgetts (Snr) And Others
Location: Land To The North Of Bagworth Road Nailstone Leicestershire
Proposal: CHANGE OF USE FROM KEEPING OF HORSES TO KEEPING OF HORSES AND RESIDENTIAL CARAVAN SITE FOR TEN GYPSY FAMILIES WITH TWO CARAVANS AND AMENITY BLOCK, INCLUDING ACCESS IMPROVEMENT, ACCESS ROAD AND LAYING OF HARDSTANDING

Introduction:-

This is a full application for the creation of 10 permanent residential pitches each proposing to accommodate 2 caravans and an amenity building at land to the north of Bagworth Road Nailstone. A new hedgerow to the north side of the site is proposed along with some landscaping adjacent to the access point. The site will provide accommodation for 10 families that fall under the definition of a Gypsy for the purposes of Circular 01/2006 Planning For Gypsy And Traveller Caravan Sites.

The development subject to this application has already been commenced and is partially complete, with the exception of the siting of a number of caravans and the construction of the amenity buildings.

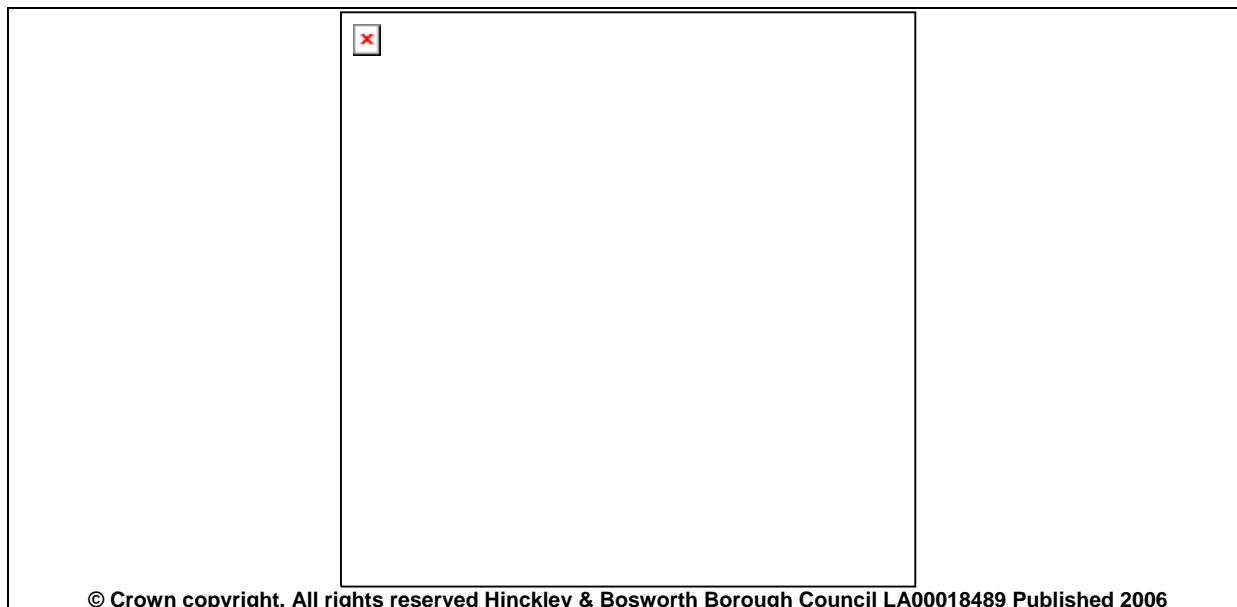
The site covers approximately 0.82 hectares and accessed from an existing field access from Bagworth Road. Modifications have taken place to this access to allow vehicles to pass clear of the highway. The site has a mature hedgerow running parallel to Bagworth Road to the south and a number of mature trees to the northeast.

The application contains a statement providing basic details of the families that are to occupy the plots and provides some brief detail in respect of the families needs for permanent accommodation. The Design and Access Statement confirms details in respect of the access and sustainability of the site and concludes that the proposal fully accords with Local Plan policy RES13 and would contribute to the unmet need for Gypsy sites within the Borough.

The site subject to this application previously accommodated a timber stable building. However this burnt down some time ago and as such the use of the site for the stabling of horses had ceased.

History:-

07/00604/FUL	Erection of Six Stables and Tack Room	Approved	30.07.07
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Consultations:-

No objection has been received from:-

The Environment Agency
The Council's Waste & Recycling Officer
Head of Community Services (Pollution).

No objection subject to conditions have been received from Severn Trent Water.

The Director of Property Services (Leicestershire County Council Gypsy Liaison Officer) has provided a detailed response in respect of the occupier's needs and history having visited the site. The gypsy status of the occupiers is confirmed along with confirmation of the travelling families' need of a place to live. The response further details that the occupants (those surveyed) are from unauthorised roadside encampments, some from overcrowded sites, some their by personal choice (by leaving the family pitch and through the desire to be closer to relatives) but all are in need of accommodation. The response details that the site would accommodate their need and if the application were not successful would have no where to legally park their caravans. The Gypsy Liaison Officer further confirms that the content of the Good Practice Guide entitled 'Managing Unauthorised Camping' and Circular 01/06 provides further advice on considering such proposals.

The Director of Highways, Transportation and Waste Management (Highways) objects to the proposal as it results in a large scale intensification in vehicular use of an existing field access taken from an unlit section of Class II road in a location remote from main development where traffic speeds are generally high. Additionally, an increase in turning traffic onto or off the B585 at this location would not be in the best interests of Highway safety. The proposal is contrary to the Highway Authority's access to road network and development control policies.

Barlestone Parish Council objects to the application on the following grounds:-

Environmental grounds

Intrusion into open countryside

The area is within the National Forest

Over proliferation of sites in the area

Highway concerns regarding extra traffic and access to the site

Visual amenity

Pressure on local public services.

The National Forest Company objects to the application because of the potential impact it will have on the rural environment, the National Forest setting and the prematurity of the proposal in light of the LDF Site Allocations consultation.

Site notice and Press notice were displayed and neighbours notified.

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

Director of Community Services (Archaeology)

Director of Community Services (Ecology)

Parish Council (Nailstone /Bagworth and Thornton)

Head of Community Services (Land Drainage).

Policy:-

National Planning Guidance

Circular 01/2006 - Planning for Gypsy and Traveller Sites replaces Circular 1/94. Its main intentions are:

- To significantly increase the number of Gypsy and Traveller sites with planning permission in order to address under-provision
- To recognise, protect and facilitate the traditional lifestyle of Gypsies and Travellers;
- To identify and make provision for the resultant land and accommodation requirements;
- To help or avoid Gypsies and Travellers becoming unintentionally homeless;
- To reflect the status of Gypsy and Traveller accommodation as a part of wider housing provision;
- To create and support sustainable, integrated communities where Gypsies and Travellers have equality of access to suitable accommodation, education, health and welfare provision, and where there is mutual respect between all communities for the rights and responsibilities of each community and individual;
- To promote more private Gypsy and Traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites;
- To underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- To ensure that Development Plan Documents include fair, realistic and inclusive policies to ensure identified need is dealt with fairly and effectively
- To reduce the number of un-authorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this circular.

Regional Policy

East Midlands Regional Plan - Sets the vision for the East Midlands Region providing overarching policies to give a consistent approach to planning across the region.

Policy 16 Regional Priorities for Provision for Gypsies, Travellers and Travelling Show People, requires Local Authorities are required to identify land for additional pitch provision based on clear evidenced assessment of need. These needs are identified in The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016 and the emerging Local Development Framework for the Borough.

Policy 31 Priorities for the Management and Enhancement of the Regions Landscape, requires Local Authorities to amongst other things, establish policies to ensure that development proposals respect intrinsic landscape character through landscape character assessments.

Local Plan Policy

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

Policy NE10 requires development within local landscape improvement areas to include comprehensive landscape proposals to enhance these areas.

Policy NE21 allows development within the National Forest providing criteria are met including design and landscaping that reflects the character of the national forest.

Policy T5 of the Local Plan relates to highway design and vehicle parking standards. The policy states development that involves the creation of a new access will be subject to the highway design standards.

Policy RES13 of the Local Plan states that as an exception to the countryside restraint policy (NE5), gypsy caravan sites may be acceptable forms of development provided all the criteria contained in the policy are satisfied. These are:

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

Other Material Guidance

The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016 identifies the needs for gypsy and travellers within the Borough up until 2016.

Hinckley and Bosworth Landscape Character Assessment 2006 identifies the distinctive landscapes of the Borough, defines their character and provides direction for new development in light of the designation.

Appraisal:-

Given that the development is for a residential site for Gypsy families, in accordance with the Circular definition as confirmed by The County Council Gypsy Liaison Officer), the issue for consideration is whether the needs of the gypsy families and the development satisfies the criteria of Policy RES13 of the Adopted Hinckley and Bosworth Local Plan.

Gypsy and Traveller Need

The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016 identifies a need for 42 residential pitches for period up until 2016 within the Borough.

Since the Accommodation Needs Assessment was adopted in April 2007, a total of three have received planning permission within the Borough, two pitches at The Paddock, Higham on the Hill and one pitch at Stoke Lane Higham on the Hill. Accordingly, the approval of these three pitches has reduced the Borough Council's requirements to 39 permanent pitches.

This figure forms the basis of the Local Development Framework Preferred Options that have recently been consulted upon. The outcome of the Preferred Options consultation is not yet known. In the mean time the identified need remains and planning applications must be determined on their merits.

The response from the Gypsy Liaison Officer confirms that those occupiers of the site surveyed, which is 8 of the 10 pitches, are in need of accommodation and that the site will meet their needs. Whilst these are discussed in some detail they are by no means comprehensive and are without significant evidence to confirm the personal circumstances claimed.

Notwithstanding the comments of the Gypsy Liaison Officer, the Council is aware of a degree of under occupancy at a number of existing gypsy and traveller sites within the Borough and information obtained from neighbouring local authorities and from the Gypsy Liaison Officer. Accordingly, in light of the Gypsy Liaison Officer's comments detailing the circumstances and movement of the occupiers, it is possible that the movement is by choice rather than need.

The issue of capacity and under occupation at authorised and tolerated sites elsewhere has influenced the findings of the Accommodation and Needs Assessment, in so far as the assessment does through its assessment methods and modelling account for the net movement, expiry of temporary planning permission, new household formation and the unauthorised developments. Notwithstanding this point and without demonstrable need, the overarching countryside restraint policy (NE5) carries a significant weight.

One family of two adults and two children has moved to the site because of the need for a third caravan, for which their existing site was not able to accommodate. Whilst it maybe the family's desire to have a greater amount of living space, the Accommodation Needs Assessment defines the average number of caravans per family as 1.9. In light of this average figure and the overarching countryside restraint policy that applies, it must be concluded that the desire of the family to have an additional caravan should not be met in this case.

Therefore, in view of the information available in respect of the applicants/occupiers previous residences and the lack of justification and evidence provided, the argument that the applicants/occupiers may be made homeless should be given less weight than the impact of the development upon the open countryside and highway safety.

Application of Policy of RES13

Criteria A

Whilst being located outside of any settlement, it is located within reasonable distance from a number of settlements that offer a mixed degree of choice of services. The settlements of Bagworth, Barlestone and Nailstone are not more than a couple of miles away from the site and the larger centres of Ibstock and Coalville are within easy travelling distance. The site does not benefit from being located on a bus route but routes do pass through all of the above-mentioned settlements. On balance, and given consideration to the nature of the proposal and the desires of gypsy families to not be sited within existing communities, the general location of this site is considered acceptable.

Criteria B

Due to this site's rural location, there are no other properties close by. The nearest neighbouring dwellings are located at the Costalot site further east along Bagworth Road. Due to the degree of separation between this site and Costalot there is not considered to be any material issues in respect of neighbouring amenity.

Criteria C

The site is located within the Forest Hills landscape area as defined in the Landscape Character Assessment 2006 (LCA). This landscape is defined as a rolling rural landscape where the land levels change quickly, rising and falling frequently giving rise to long distance views. The LCA confirms 'that the siting and design of all new development should complement the existing settlement pattern'.

The application site has been levelled through the importation of material to provide a level site for the caravan pitches, resulting in the creation of an embankment to the northeast side of approximately 2 metres higher than the original field level. This banked up area then falls away further to the stream at the bottom of valley.

The site whilst being well screened from Bagworth Road by the mature roadside hedgerow, is somewhat open on all other sides, particularly from the north where due to the shape of the landscape, views are available down the valley toward the application site.

When viewed from Wood Lane to the north, the site is visually prominent within what is a predominately undeveloped rural landscape that is very much characterised by rolling fields with low hedgerows and few hedgerow trees. The caravans on the site are easily visible from some distance and are visually dominant within this landscape. To further exacerbate the sites prominence, by way of its position on the falling valley side the site is somewhat framed from the north by the hill on the outskirts of Bagworth and visually prominent spoil heap and the rising landscape to the west towards Nailstone and Barlestone.

The advice contained within Circular 01/2006 does make specific reference to the provision of sites within rural areas and suggests that landscape concerns and designations are not alone sufficient to refuse any application. Whilst this guidance is available, consideration of the requirements of the development plan must be weighted proportionally and any planning application must be determined on its own merits and all relevant planning matters appropriately considered. In this case the impact the proposal will have on the character and appearance of the countryside is material in this determination for the reasons discussed above.

Criteria D

Whilst this criteria refers to highway matters in relation to gypsy sites, Policy RES13 is supported by the overarching highway safety policy within the local plan is Policy T5, which conforms that the local planning authority will apply the design standards set out in the current edition of Leicestershire County Council's Highways Requirements for Development. This document has been subsequently updated and now referred to Highways Transportation and Development (HTD). For the avoidance of any doubt the relationship of HTD to Policy T5 and the applicable content of HTD have been subject to a recent appeal decision relating to a gypsy site at Lodge Farm, here the inspector agreed that HTD was applicable to the proposal and that the document should be read as a whole as its content is cross referenced throughout. Accordingly, the policy and design guidance content of HTD is a material consideration in the determination of an application of this type.

The culmination of the requirements of both policies, is that all new development results in a satisfactory highway safety arrangement, in the interests of all users of the public highway. It should be noted that Circular 01/2006 contains no direct highway safety advice and as such provisions of the development plan and other materials considerations prevail in this respect.

The Highway Authority in their consultation response has confirmed that the proposal is unacceptable as it will result in the intensification in vehicular use of the existing field access taken from an unlit section of Class II road in a location remote from main development where traffic speeds are generally high.

In considering the proposal against these policy requirements, the policy and design guidance contained within HTD, the merits of the application and the Highway Authority's consultation response, it is evident that an unsatisfactory highway arrangement would be created.

The application is not accompanied by any detailed overriding justification on highway matters nor or any highway improvement works or mitigation measures proposed. The application fails to demonstrate over and above the requirements of the development plan policies that the development would not result in an unsatisfactory highway arrangement.

Both Policy RES13 and Policy T5 seek to achieve developments that have good quality access and parking arrangements that will not result in a detriment to highway safety and in this case it is evident that the proposal will not result in such an arrangement.

In further support of this case, the Council was successful in defending an appeal at Lodge Farm for a gypsy site for 5 families where the inspector agreed that the proposal by nature of the highway safety case presented resulted in an unsatisfactory highway safety arrangement. Whilst not directly comparable in terms of the physical arrangements proposed, the issues in respect of the rural location, road classification, vehicle speed and access to the highway network were similar and fully supported in the decision.

Criteria E

The proposal does include the provision of a new hedgerow to the north edge of the site and a small amount of landscaping within the site. However, due to the degree by which the site has been levelled, would mean that a hedgerow of at least 4 metres in height would be necessary to provide any kind of screening for the site and the caravans sited within it. Whilst this landscaping is welcomed, it is not considered sufficient to screen or help assimilate the development into the rural landscape and therefore does not overcome the issues in respect on criteria C.

Criteria F

By the nature of Policy RES13 being an exception policy to the local plan's overarching countryside protection Policy NE5 and the fact that the proposal is not considered to satisfy the requirements of Policy RES13, there is conflict with the requirements of Policy NE5 and also T5 of the Adopted Hinckley and Bosworth Local Plan as discussed above.

Other Matters

Size of Pitch

The pitches proposed are of an approximate size of 625 square metres each (equating to 16 pitches per hectare) which is larger than the expected 25 pitches per hectare that was used in the modelling for The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016. This projected under occupancy of the site in terms of the number of pitches and layout including separate amenity buildings indicates that the site as proposed has the capacity for further expansion within its existing boundary.

This is a large site that whilst making a significant contribution to the gypsy and traveller need, by the nature of its size and its capability for expansion within the existing site boundaries, would give rise to further visual amenity and highway concerns.

Whilst a number of caravans have been brought onto the site, it is unclear from site inspections if these are currently being occupied as residential accommodation. Whilst the occupation is not material in the determination of this application, the provisions of the Human Rights Act 1998 in relation to the rights of any occupiers is a material consideration in the determination of any planning application.

RECOMMENDATION:- That subject to the expiry of the statutory consultation period, the Director of Community and Planning Services be granted powers to Refuse to grant planning permission for the reasons below.

- 1 The proposal results in a large scale intensification of vehicular traffic using an existing field access off Garland Lane/Bagworth Road (B585), which is an unlit section of Class II road in a location remote from main development where traffic speeds are generally high. An increase in turning traffic onto or off the B585 at this location would not be in the best interests of Highway safety. The proposal is contrary to the Highway Authority's access to road network and development control policies and the requirements of Policies RES13 and T5 of the Adopted Hinckley and Bosworth Local Plan.
- 2 In the opinion of the local planning authority the site is located in a prominent and elevated position in a predominately undeveloped rural landscape resulting in an adverse effect on the appearance of the countryside. Therefore, the development is contrary to the requirements of Policy 31 of the Adopted East Midlands Regional Plan, Policy RES 13 of the Adopted Hinckley and Bosworth Local Plan and the guidance contained within the Adopted Hinckley and Bosworth Landscape Character Appraisal 2006. As such the development cannot be considered as an exception to Policy NE5 and is therefore contrary to Policy NE5 of the Hinckley and Bosworth Local Plan, which seeks to protect the countryside for its own sake.

Contact Officer:- James Hicks Ext 5762

Item: 02
Reference: 09/00207/TEMP
Applicant: Mr Paul Finney
Location: Land At Heath Road Bagworth Leicestershire
Proposal: PRIVATE GYPSY CARAVAN SITE FOR FOUR CARAVANS TEMPORARY FOR 3 YEARS.

Introduction:-

This application seeks planning permission for a temporary period of three years for the use of the land as a private gypsy caravan site for four caravans. The site consists of a static caravan sited on the western ground of the site, and two touring caravans, a shed and portable toilet. A two metre fence screens the portable toilet from the main site and the vehicular entrance.

The site covers an area of 0.17 hectares and is located on the west side of Heath Road, within the Parish of Bagworth. The site is located to the north of a sweeping bend in the road, with lakes to the south of the site. The site is surrounded by agricultural fields and paddocks with fields separated by mature hedgerows. The site is screened from the public highway by a high mature hedgerow.

Planning permission for the use of the site for gypsy and traveller accommodation was refused in 2003, and an appeal was then lodged against the decision of the Local Authority and the subsequent enforcement notice. The appeal was dismissed with the Inspector considering that the harm to the character of the open countryside, inadequate visibility at the access and concerns raised with regard to the drainage provision of the site were not outweighed by the applicants gypsy status or personal circumstances. However, the Inspector, placing the emphasis of finding an alternative site on the Local Authority, gave the family one year in which to find alternative accommodation and vacate the site.

Government Circular 1/2006, placed upon Local Authorities a responsibility to provide adequate sites to meet gypsy and traveller need in their area. Following this the applicant submitted a planning application to allow him and his family to occupy the site for a temporary period which expired on the 31st August 2007. This application was granted to allow the Borough Council to prepare a Gypsy and Traveller Accommodation Assessment. This work has now been undertaken and the Council are now in the process of preparing the Site Allocations Development Plan Document which will form part of the Local Development Framework. This document will allocate land for use as gypsy and traveller sites.

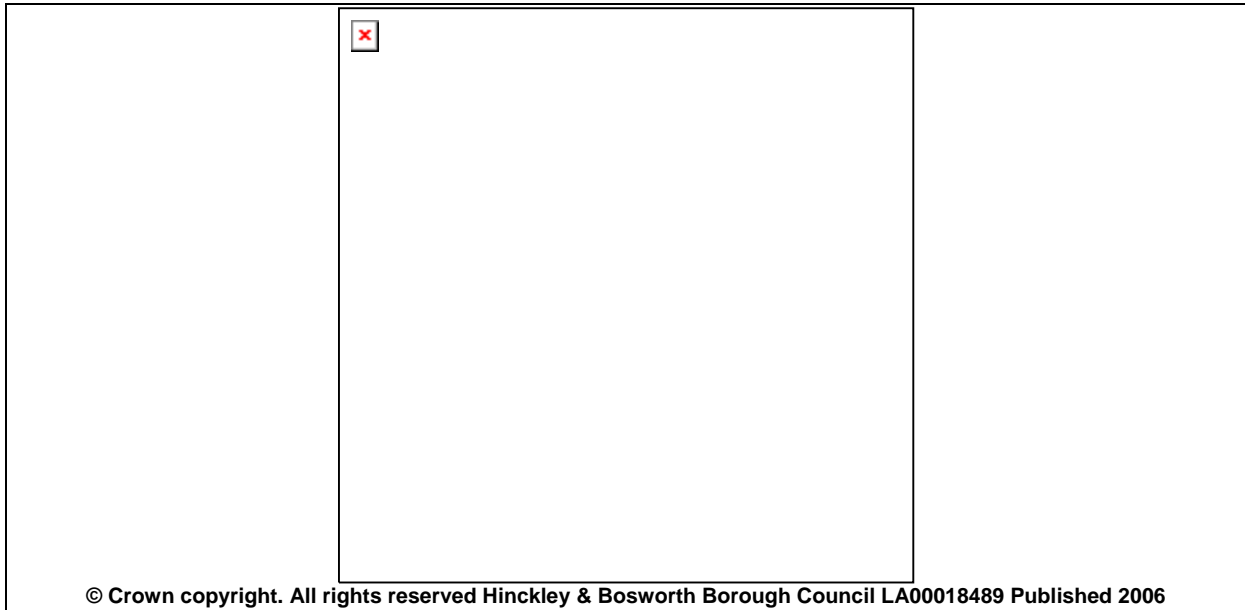
In 2006 consent was granted for an extension to the gypsy and traveller site at Garlands Lane, Bagworth to provide for an extra five pitches. This was granted in the expectation of providing Mr Finney with a permanent site within the same area and so providing continuity with services used by the family in the locality. However, a personal disagreement prevented this from occurring.

History:-

06/00281/COU	Change of use of land for four private gypsy caravans (temporary permission)	Approved	21.06.06
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03/01363/COU Change of use of land to gypsy caravan site for one family comprising of three caravans stationing of portable building, formation of hard standing areas and erection of fencing (Appeal Dismissed 06.01.05 and enforcement notice upheld with amendments) Refused 28.01.04

90/00429/4 Gypsy caravan site Refused 25.11.90



Consultations:-

The National Forest Company have commented that the site should be assessed in terms of the impact on the National Forest and any development should be sensitively designed to this particular location.

Director of Highways, Transportation and Waste Management (Highways) has objected to the proposal as it would continue to result in traffic turning onto and off a section of Class III road at a location where motorists may not be anticipating such manoeuvres.

Director of Corporate Resources (Travellers Sites and Liaison Officer) has confirmed that the applicant does fall under the definition of a gypsy for the purpose of planning circular 01/2006. The site is required to provide accommodation for Mr and Mrs Finney and their children and grandchildren and confirms that there is a need in the area for gypsy and traveller accommodation.

Bagworth and Thornton Parish Council have objected on the grounds that the site was an illegal encampment and given one year to vacate following an appeal, to enable the applicant to find alternative accommodation, which the Parish was requested to consent to.

No objections received from:-

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

Site notice was displayed and neighbours notified.

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

- a) The application site is in a beauty spot and when using the site they feel intimidated.
- b) There are already 5 illegal encampments in the Bagworth area and these should now be stopped.

At the time of writing the report comments have not been received from the Woodland Trust.

Policy:-

Central Government Guidance

Circular 01/2006 - Planning for Gypsy and Traveller Sites replaces Circular 1/94. Its main intentions are:

- To significantly increase the number of Gypsy and Traveller sites with planning permission in order to address under-provision;-
- To recognise, protect and facilitate the traditional lifestyle of Gypsies and Travellers;
- To identify and make provision for the resultant land and accommodation requirements;
- To help or avoid Gypsies and Travellers becoming unintentionally homeless;

- To reflect the status of Gypsy and Traveller accommodation as a part of wider housing provision;
- To create and support sustainable, integrated communities where Gypsies and Travellers have equality of access to suitable accommodation, education, health and welfare provision, and where there is mutual respect between all communities for the rights and responsibilities of each community and individual;
- To promote more private Gypsy and Traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites;
- To underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- To ensure that Development Plan Documents include fair, realistic and inclusive policies to ensure identified need is dealt with fairly and effectively; and
- To reduce the number of un-authorized encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this circular.

Regional Policy

East Midlands Regional Plan - Sets the vision for the East Midlands Region providing overarching policies to give a consistent approach to planning across the region.

Policy 16 'Regional Priorities for Provision for Gypsies, Travellers and Travelling Show People', requires Local Authorities to identify land for additional pitch provision based on clear evidenced assessment of need. These needs are identified in The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016 and the emerging Local Development Framework for the Borough.

Policy 31 'Priorities for the Management and Enhancement of the Regions Landscape', requires Local Authorities to amongst other things, establish policies to ensure that development proposals respect intrinsic landscape character through landscape character assessments.

Local Policy

The application site is located within the countryside, the national forest, landscape improvement area and Leicestershire priority area as defined by the adopted Hinckley and Bosworth Local Plan.

Policy RES13 of the Local Plan states that as an exception to the countryside restraint policy (NE5), gypsy caravan sites may be acceptable forms of development provided all the criteria contained in the policy are satisfied. These are:

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

Policy NE5 allows certain developments within the countryside where they are required for either sport and recreation or to support the local economy, providing other criteria are met including siting and appearance.

Policy NE10 requires development within local landscape improvement areas to include comprehensive landscape proposals to enhance the landscape of these areas.

Policy NE21 allows development within the national forest providing criteria are met including design and landscaping that reflects the character of the national forest.

Policy T5 has regard to highway design and parking standards, which requires access to comply with the standards set out in the current edition of 'Highway Requirements for Development'.

Other Material Guidance

The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016 identifies the needs for gypsy and travellers within the Borough up until 2016.

Hinckley and Bosworth Landscape Character Assessment 2006 identifies the distinctive landscapes of the Borough, defines their character and provides direction for new development in light of the designation.

Appraisal:-

The main considerations with regards to this application are the effect of the development on the character and appearance of the countryside, highway safety and the current provision of sites for gypsy and travellers.

Impact on the Countryside

The site is within the open countryside, at the bottom of a valley within the vicinity of Bagworth Heath recreational grounds, Royal Tigers and Centenary Woods and within the National Forest. The area is highlighted for environmental improvements. Whilst the site is surrounded by hedges and separated from the highway by a 2m close boarded fence the site is a prominent feature in Heath Road and visible from surrounding public footpaths that run through the adjoining recreational sites. Policy RES13, criteria c allows gypsy and traveller sites in the countryside and as an exception to Policy NE5 providing the development would not have an adverse impact on the appearance of the countryside. In view of the above it is considered the site would not comply with criteria c and therefore is also contrary to Policy NE5 and NE10 of the Hinckley Local Plan.

Current provision of sites

Circular 01/2006 places an onus on the Local Planning Authority to allocate sufficient sites for gypsy and travellers. These sites should be based on a number of criteria including the sustainability of the site which includes the integration between the site and the local community, access to health and GP services, children attending school on a regular basis, the provision of a settled base that reduces the need for long distance travelling and the possible environmental damage caused by unauthorised encampments. Priority should be given to locations in or near existing settlements that have access to local services.

Heath Lane is located outside the settlement boundary approximately 1 km from the centre of Bagworth, which does not have a local shop or school. Additional facilities can be found within the centres of Thornton (3km), Barlestone (5km), Nailstone (5km) and Newbold Verdon (5km). An application for change of use of land to a gypsy caravan site for one family comprising of three caravans stationing of portable building, formation of hard standing areas and erection of fencing in 2005 was dismissed at appeal with the Inspector supporting the Local Authority's view that the encampment has a detrimental effect on the visual appearance of the countryside and an unacceptable access. It has therefore been held at appeal that this is not a suitable site for Gypsy and Traveller accommodation.

Following the appeal decision the Government published Circular 01/2006 which put an obligation on the Local Authority to provide adequate sites to accommodate the gypsy and traveller community. An application in 2006 was granted for a temporary period to allow a Gypsy and Traveller Accommodation Assessment to be undertaken. This document then fed into the East Midlands Spatial Strategy which was adopted in March this year and requires 26 permanent sites for gypsy and travellers within the Borough up to 2012 with a further 16 before 2016. Currently the authority is in the process of allocating the sites and just recently finished its preferred option public consultation exercise.

The Council recognises that currently there is a need for gypsy and traveller sites in the area. However, it has been demonstrated at the appeal hearing in 2005 that this site is not suitable, due to impact on the countryside and highway safety, as a permanent site. In the past discussions with the applicant have been entered into and a planning application and approved to extend a site to provide a lawful permanent site for him and his family. This Authority therefore considers that by granting permission for extra pitches on the site on Garland Lane, the applicant used to occupy, and the lack of engagement by the applicant to find another permanent site, this Authority has reasonably attempted to provide additional accommodation.

Highways

Policy RES13 (d), allows gypsy and traveller sites providing the site has acceptable vehicular access and provision for parking and servicing. County Highways has objected to the proposal due to traffic turning onto and off a section of Class III road at a location in the countryside where other motorists may not be anticipating such manoeuvres. The visibility from the access is also substandard due to the road layout. County Highways therefore recommend refusal of the application and it is considered that the application is contrary to Policy RES 13 (d) and Policy T 5.

Conclusion

Whilst there is a recognised need for gypsy and traveller accommodation in the borough, it is considered that this site would be not suitable as it fails to comply with the criteria within Policy RES13, in particular the impact on the countryside and highway safety. This view was supported by a planning Inspector at appeal and it is considered that every reasonable effort has been made to assist the applicant to find an alternative site. It is therefore recommended that this application be refused.

RECOMMENDATION :- REFUSE, for the following reasons :-

- 1 In the opinion of the Local Planning Authority, the site is located in a prominent location visible from surrounding public footpaths and other public vantage points and is considered to have an adverse impact on the countryside. Therefore, the development is contrary to the requirements of Policy 31 of the Adopted East Midlands Regional Plan, Policy RES 13 of the Adopted Hinckley and Bosworth Local Plan and the guidance contained within the Adopted Hinckley and Bosworth Landscape Character Appraisal 2006. As such the development cannot be considered as an exception to Policy NE5 and is therefore contrary to Policy NE5 of the Hinckley and Bosworth Local Plan, which seeks to protect the countryside for its own sake.
- 2 The development if permitted would result in the continuation in traffic turning onto and off a section of Class III road at a location within the countryside where other motorists may not be anticipating such manoeuvres. The vehicle access is also substandard in terms of available visibility both to and from emerging vehicles. A permanent access at this location would not be in the best interests of Highway safety and therefore the proposal is contrary to the Highway Authority's access to road network and development control policies and the requirements of Policies RES13 and T5 of the Adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 List of plans used in the determination of this application:-
LPA- 01 A, LPA- 02 A.

Contact Officer:- Sarah Humphries Ext 5680

Item: 03

Reference: 09/00267/GDOT

Applicant: Vodafone

Location: Street Verge Rugby Road Burbage Leicestershire

Proposal: ERECTION OF 12.4M VODAFONE MAST WITH EQUIPMENT CABINET AND ASSOCIATED WORKS

Introduction:-

This is a prior approval application for the erection of a telecommunications installation on the grass verge of Rugby Road, approximately 70m north west of the junction with the Ridgeway in Burbage. The eastern side of the Rugby Road at this point has a wide grass verge to the back edge of the footpath planted with an avenue of semi-mature Norwegian

maple trees, behind which is an access road providing direct vehicular access to a row of semi-detached properties.

This application is made under part 24 of the Town and Country Planning (General Permitted Development)(Amendment)(England) Order 1991. There is a statutory period of 56 days in which to determine the application, otherwise the applicant has the right to carry out the development. In considering the application the Borough Council are restricted to expressing opinions on matters of siting and appearance only.

The proposed mast measures 12.5m with the antenna measuring 2.5m and is designed to resemble a lighting column. Equipment housing is also proposed measuring 1.5m in width, 0.5m in depth and 1.4m high. It is proposed that the mast be sited at the back edge of the footpath in front of one of the sycamore trees. The trunk of the tree would screen the mast from the properties directly to the south west.

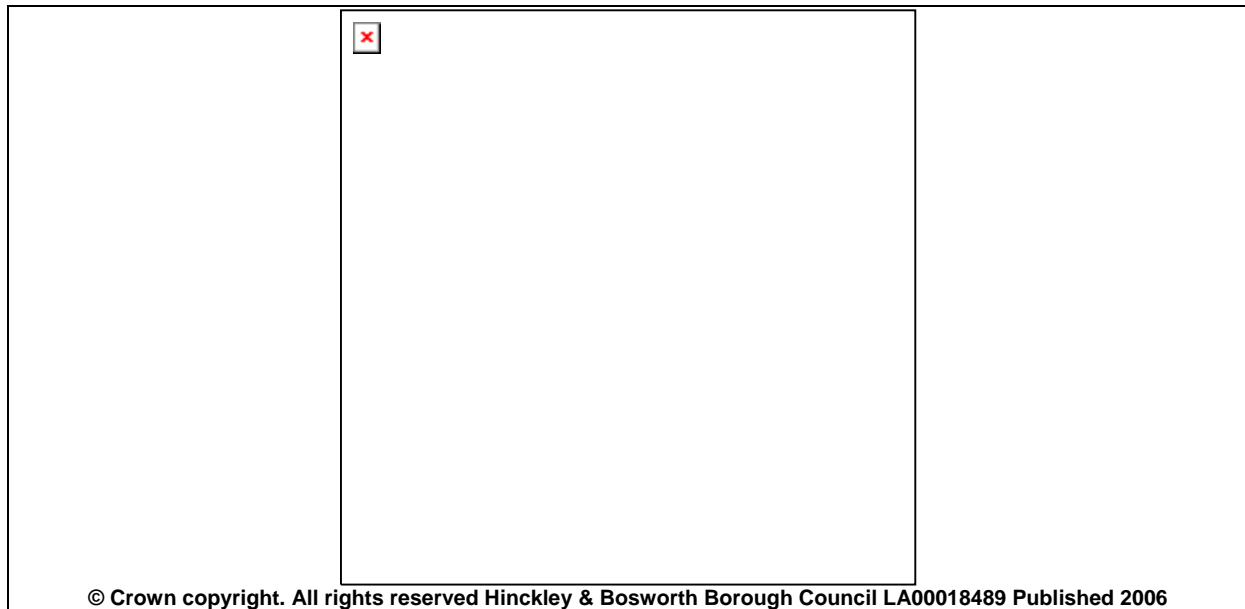
Technical information has been submitted giving details of the existing and proposed coverage in the area by the mast. The mast is required to allow Vodafone to provide 3G coverage to this area of Burbage. Information was also submitted giving details of the pre-application consultation process and advice received from both the Local Authority and the Parish Council. A certificate demonstrating that the proposal would comply with ICNIRP Public exposure guidelines was also submitted.

Members may recall a similar application went before planning committee in June 2004 which was refused on the grounds that the applicants had not adequately demonstrated that they had fully considered all alternative sites; and, due to the siting the proposal would detrimentally harm the health of the trees. Following the decision an appeal was submitted. Discussions between the Planning Officers and Applicants continued and an independent consultant verified that the Rugby Road site was the best option and all viable alternatives in the area had been considered. It was also established by the County Forestry Officer that the mast could be installed without detrimentally harming the trees. These findings removed the reasons for refusal and a report went before the Planning Committee which resolved that providing information is submitted to demonstrate that there are no alternative sites, Vodafone be invited to submit a further application. The appeal was withdrawn on that understanding.

The current application has revised the position of the mast. The mast is now proposed approximately 5m to the north of the location of the previous application. The design has also changed from a telegraph pole structure to a lamppost design.

History:-

05/00489/GDOT	Erection of Telecommunications mast	Refused (Appeal withdrawn)	17.06.05
04/01253/GDOT	Erection of 12.5m 3G Telecommunications monopole	Withdrawn	09.11.04



Consultations:-

Site notice was displayed and neighbours notified.

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

- a) Installation not appropriate in a residential area
- b) Concerned about the health risks
- c) Mast would be unsightly
- d) Detrimental impact on the trees
- e) Danger to nearby school children
- f) Make homes unsellable.

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

Director of Highways, Transportation and Waste Management (Highways)
Burbage Parish Council.

Policy:-

Central Government Guidance

Planning Policy Guidance Note 8- 'Telecommunications'. states that It is the Governments aim to facilitate the growth of existing telecommunications systems whilst keeping the environmental impact to a minimum. This document gives guidance on how this can be achieved through the planning system.

Local Plan Policy

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

Policy BE1 considers the siting of development with regard given to the character and features of the area and amenities of local residents.

Supplementary Planning Documents

Burbage Village Design Statement- Defines the different characteristics of Burbage and provides guidance for new development. There is no specific mention of Telecommunications development.

Telecommunications - seeks to give guidance and provide clarity with regard to telecommunication development within the Borough. This document was based upon Policy BE23, of the Hinckley and Bosworth Local Plan, which was not a saved policy and hence the document now has little weight.

Appraisal:-

The main considerations with regards to this application are the siting and appearance of the proposed mast.

Appearance

The mast would be located within an urban area, along side a main road into Hinckley which benefits from lampposts at regular intervals situated on the back edge of the highway. Telegraph poles are also visible within the vicinity of the site, serving nearby properties. These are more infrequently spaced, in and around the perimeter of the verge. The introduction of a mast, designed to resemble a lamppost would not therefore be out of character with the urban landscape. It is considered that the appearance of the structure is acceptable.

Siting

The re-location of the mast within 3m of the trunk of the nearest tree would result in disturbance to the roots and canopy of the tree. Previously the siting of the mast was located at a sufficient distance from the trunk of the trees to ensure that an adequate protection zone could be established around each tree, which would ensure that the harm to the trees was kept to a minimum. The trees have obviously continued to grow and now the canopy spread is to the boundary of the footpath. The mast would be sited within the minimum tree protection zone, as advised by the current British Standards, and extend through the canopy resulting in future conflict between the mast operator and amenity value of the tree. Works to the tree to ensure that the tree does not interfere with the operation of the mast are anticipated to unbalance the tree's shape, reducing the amenity value the tree provides and damaging the overall effect of the group. The applicants have failed to submit information that gives details of how the work to install the mast and how its future operation would not harm the tree. Therefore, it is considered that the siting of the mast in such close proximity to the tree without any information demonstrating how the mast could be installed without compromising the health or amenity value of the tree is unacceptable and contrary to Policy BE1.

Other Considerations

Under the previous application (05/00489/GDOT), it was established that there are no alternative sites that better meet the requirements of the service provider. The technical information submitted is therefore considered to be accurate and conclusive.

The Government has decided that the planning system is not the mechanism through which health issues surrounding telecommunication development should be expressed. Impact on public health is not a planning consideration which can influence the determination of this application.

Objections have been received regarding the detrimental impact on nearby house prices. As with health concerns the Government has ruled that these are not a material consideration for the planning system and therefore cannot influence the determination of this application.

RECOMMENDATION :- REFUSE, for the following reasons :-

- 1 In the opinion of the Local Planning Authority, the applicant has failed to demonstrate how the siting of the mast would not detrimentally harm the health of the trees which are considered to significantly contribute to the character and appearance of this section of the Rugby Road contrary to Policy BE1 of the adopted Hinckley and Bosworth Local Plan and Planning Policy guidance Note 8 on Telecommunications.

Notes to Applicant:-

- 1 List of plans used in the determination of this application:-
35755E/001, -002, -003, -004

Contact Officer:- Sarah Humphries Ext 5680

Item: 04

Reference: 09/00142/LBC

Applicant: HBBC And North Warwickshire And Hinckley College

Location: Atkins Bros Ltd Lower Bond Street Hinckley Leicestershire LE10 1QU

Proposal: CHANGE OF USE AND CONVERSION OF THE EXISTING GRADE I I LISTED GODDARD BUILDING FOR USE AS A CREATIVE INDUSTRIES CENTRE INCLUDING ASSOCIATED CAR PARKING

Introduction:-

This application proposes the conversion and adaption of the existing Grade II Listed Goddard building for use as a creative industries centre. This Listed Building application has been submitted together with a full planning application (09/00141/DEEM) for the redevelopment of the former Atkins Site for a mixed use development comprising a new college building for occupation by North Warwickshire and Hinckley College and the change of use and conversion of the existing Grade II Listed Goddard Building for use as a Creative Industries Centre. The full planning application does not form part of this agenda as officers are negotiating amendments to the design of the college building.

The principle areas of work under consideration with this application include:

Second Floor

- Installation of a raised floor which enables the concealment of new services
- The installation of a new staircase (Building 1A) of steel construction. This is proposed in close proximity to an earlier staircase location
- Upgrade of existing toilet facilities and where new facilities are provided they have been located to minimise impact on historic fabric
- Removal of existing lift cars and re-use of shafts for new services
- Installation of new lifts to comply with modern requirements
- New services to facilitate conversion
- Installation of new openings to external elevation, including louvers.

First Floor

- As above but with the addition of new full height cellular offices in Buildings 1A and 1B

Ground Floor

- Installation of a raised floor in Building 1B which enables the concealment of new services
- Repair and cleaning of existing timbers floor to all other areas
- Installation of partitioning to Building 1A
- Installation of cellular offices in Buildings 1B
- Installation of new spiral staircase to Building 1B to provide access to lower ground floor
- Main Entrance to include glazed openings and the installation of new staircase including bridge link and lift for people with disabilities
- Installation of Cafe/Bar/Reception area
- Erection of new external deck to Building 2
- Installation of new openings including the formation of a new glazed public entrance to the northern gable of Building 2.

Lower Ground Floor

- Installation of new staircase to ground floor
- Installation of new plant
- Installation of new hardwood timber floor.

Other external works includes the erection of a retaining wall to the Unitarian Chapel boundary, CCTV system, new staircase to Building 1A and the erection of a combined sub-station and bin store.

The Goddard building occupies a prominent location fronting Lower Bond Street and Baines Lane and is Grade II Listed. A variety of uses and buildings including residential, commercial, and the chapel bound the site. Three of those buildings, The Great Meeting Hall, The Framework Knitters Cottage and The Holly Bush Public House are Grade II and II* Listed.

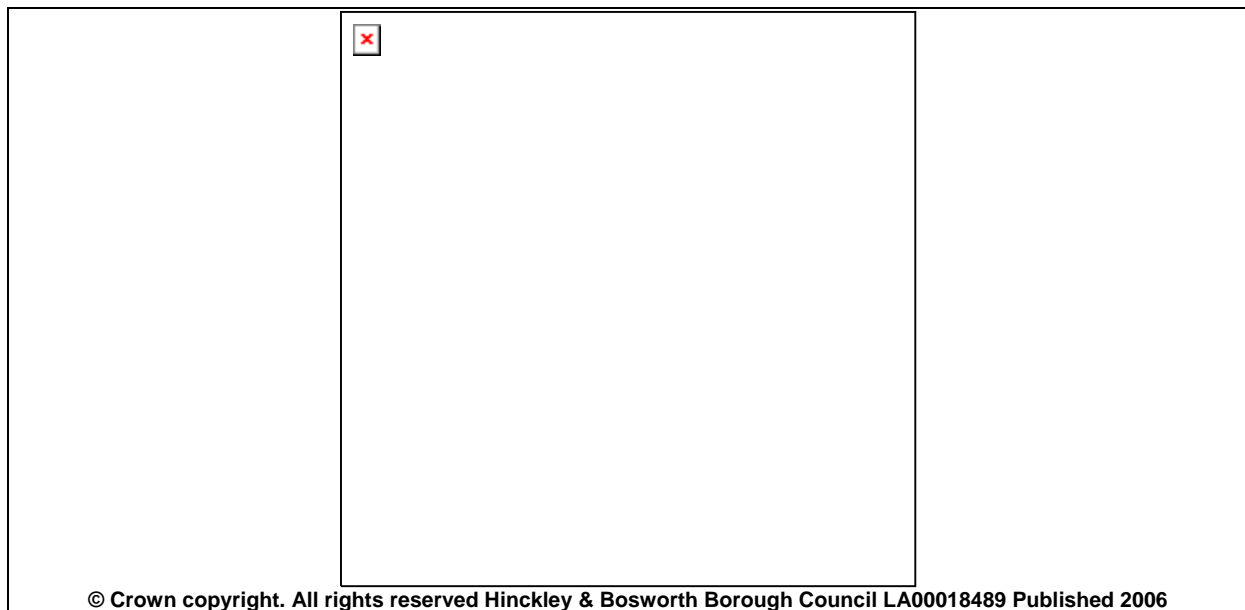
A Design and Access Statement, Justification Statement, Heritage Statement and Bat Survey have been submitted.

The Justification Statement states that "as far as practicable, use has been made of many of the building's existing and evolved features as a factory including loading doors, wall openings to former building extensions (now demolished) and obsolete lift shafts. The cast-iron columns and suspended timber floors together with the exposed timber roof spaces throughout are preserved for their intrinsic value and character. Where sub-division of space within the wings is necessary, glazing or low height partition will be used as much as possible to allow space to continue to flow and the conserved features to be read."

The Heritage Statement explores the proposal in detail, and concludes that "the proposal is a sympathetic programme which facilitates the survival and maintenance of the building long term through its conversion for new uses, whilst maintaining those elements that define its historic and architectural character."

History:-

09/0003/LBC	Works to windows/openings (including replacement), flat roof covering upgrade, lightning protection and the removal of redundant building services	Approved	30.03.09
08/01169/LBC	Installation of CCTV cameras, including an anti theft guard	Withdrawn	28.01.09
08/00959/LBC	Alterations to roof and replace gutter pipe	Approved	25.11.08
08/00691/ADV	Erection of signage	Approved	01.08.08
07/01218/LBC	Demolition of buildings	Approved	28.01.08
05/01112/CON	Demolition of existing building	Refused	11.01.06
05/01111/FUL	Mixed use development of dwelling and Work units with garages, landscaping and roads	Refused	11.01.06

**Consultations:-**

No objections has been received from:-

English Heritage
Hinckley Civic Society
The Victorian Society.

No objection subject to conditions have been received from the Director of Community Services (Archaeology).

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

Society for the Protection of Ancient Buildings

Ancient Monuments Society
Georgian Group
Council for British Archaeology
The Twentieth Century Society.

Policy:-

National Guidance

Planning Policy Guidance Note 15 - Planning and the Historic Environment provides a full statement of Government policies for the identification and protection of historic buildings, conservation areas, and other elements of the historic environment. Paragraph 3.4 of PPG15 states that applicants applying for listed building consent must be able to justify their proposal. They will need to show why works which affect the character of a listed building are desirable or necessary.

Hinckley and Bosworth Local Plan

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

Policy BE4 states that planning permission will be granted for alterations and additions to listed buildings only if it can be demonstrated that the proposal would not detract from the architectural or historical character of the building.

Policy BE16 seeks to ensure implementation of a programme of archaeological work.

Appraisal:-

The main consideration with regard to this application is the impact on the character of the listed building.

The Character

Atkins Brothers (Hosiery) Factory also known as the Goddard Building is a Grade II Listed Building. The Goddard Building was built in two stages: 1875 -1878 and consists of an L-shaped block. The site previously consisted of a range of buildings used in the hosiery industry. Listed Building Consent (07/01218/LBC) was granted on 25 January 2008 for the demolition of the vacant post 1920's buildings. Those buildings have been demolished and the site cleared in preparation for the next phase of development which proposes a new college building and the change of use of the Goddard Building into mixed use, including creative industry. Interim listed building applications have been submitted and approved which have allowed for the continuation of maintenance works to the building during the preparation and submission of the final phase of development.

Impact of works on the Grade II Listed Building

In terms of the impact on the special interest of the Goddard Building, the proposals preserve the buildings architectural and historic qualities. In particular, the use of flexible, open plan spaces is welcomed. New additions in the form of new staircase within the main entrance and the new external deck for the cafe are acceptable in the context of this robust industrial building. Whilst raised floors are proposed these will have an inevitable impact on the character of the space, however it is considered that the raised floors allow the ability to incorporate services without physical interference into the fabric of the building and is therefore acceptable. The original entrances and circulation patterns are to be maintained and original features where possible have been retained. The works have been kept to the minimum necessary to enable a, long term, successful conversion into a creative industries and innovation centre and also considers future uses.

Officers (in particular the Conservation Officer) have worked closely with English Heritage to ensure that each element of the proposal has been carefully considered so as to have minimum impact on the historic fabric whilst still ultimately achieving a high quality scheme with character. Following advice from English Heritage amended plans have been received which omit the circular steel frame that was proposed to screen the existing toilet block to the northern elevation of the building and omit an external glazed lean-to enclosure which was proposed to be a link for internal corridors.

Conclusion

The building has been redundant since 2000 with no maintenance works undertaken which has resulted in the rapid deterioration of the buildings fabric, particularly at roof level with the ingress of water and vermin. The vacant site and building has become prone to criminal activity which has had a detrimental impact on the quality of the surrounding area. The proposal seeks to ensure that a Grade II Listed building is brought back into use and plays a significant part in the regeneration of the town centre.

It is considered that the submitted scheme preserves the building's architectural and historic qualities and secures the sympathetic and effective restoration of this Grade II Listed Building. The works would not have a detrimental impact on its character and appearance nor on the historic fabric of the building, and as such it is considered that the proposed works should be supported.

Regulation 13 of the Planning (Listed Building and Conservation Areas) Regulations 1990 requires that applications by a Local Planning Authority on its own land for Listed Building consent are to be made to the Secretary of State following this committee resolution.

RECOMMENDATION: - That powers be delegated to the Director of Community and Planning Services to refer the application to the Secretary of State following the expiry of the consultation period and resolution of matters that may arise, in accordance with Regulation 13 of the Planning (Listed Building and Conservation Areas) Regulations 1990.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the historic fabric, character and setting of the Grade II Listed Building, designs and uses of materials, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed works would be in accordance with the development plan.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, BE4 and BE16.

- 1 The works to which this consent relates shall begin not later than the expiration of three years from the date of this consent.
- 2 This permission relates to the application as revised by amended plans Dwg Nos. 0120 Rev F, 0121 Rev F, 0122 Rev G, 0123 Rev G, 0124 Rev F, 0126 Rev E; received by the Local Planning Authority on 8 April 2009.
- 3 Prior to the commencement of the works here permitted, a programme of archaeological work, comprising the production of an appropriate report and deposition of the project archive will be submitted to and approved in writing by the Local Planning Authority. The works should be completed in accordance with the agreed scheme of work.

- 4 Prior to the commencement of works hereby permitted a detailed method statement and drawings for the construction of all new fixtures, fittings and services shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include the impact and mitigation works on the existing building fabric. All works shall be carried out in accordance with the approved scheme.
- 5 Notwithstanding the submitted details no development shall commence on site until further details of the security system (CCTV), sub station and bin store have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out as approved.
- 6 Prior to the commencement of works hereby permitted a detailed methodology for the treatment of existing historic paint finishes and a schedule of new finishes, including samples, shall be submitted to and approved in writing by the Local Planning Authority. All works shall be carried out in accordance with the approved scheme.

Reasons:-

- 1 To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 2 To define the permission.
- 3 To ensure the submission of a report and the satisfactory deposition of the archive to accord with policy BE16 of the Hinckley and Bosworth Local Plan.
- 4 To enable the Local Planning Authority to retain control over this important detail in the interests of preserving the historic character of the building to accord with policy BE16 of the Hinckley and Bosworth Local Plan.
- 5 To enable the Local Planning Authority to retain control over this important detail in the interests of preserving the historic character of the building to accord with policy BE4 of the Hinckley and Bosworth Local Plan.
- 6 To enable the local planning authority to retain control over this important detail in the interests of preserving the historic character of the building to accord with policy BE4 of the Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Cathy Horton Ext 5605

Item: 05
Reference: 09/00080/FUL
Applicant: Hinckley Club For Young People
Location: Richmond Park Richmond Road Hinckley Leicestershire
Proposal: ERECTION OF YOUTH CENTRE AND COMMUNITY FACILITIES INCLUDING EXTERNAL ACTIVITY AREAS AND PARKING

Introduction:-

This application seeks full planning permission for the erection of a youth centre and community facilities including external activity areas and parking, at Richmond Park in Hinckley. The application is submitted by the Hinckley Club for Young People and is proposed as a replacement facility for their existing club premises on Stoke Road. The proposal is being funded partially by a central government 'My Space' grant.

The site occupies the southeast corner of Richmond Park adjacent to the existing pavilion and replaces the former children's play area that was removed earlier this year. The southeast corner of the park is bound by residential properties, an existing community facility and a part completed residential development.

The facility proposes a series of internal sports halls and two external pitches, an internal climbing wall, a BMX track, a skate park, and outside amenity recreational areas. Additionally to the first floor there is a bar and function room area proposed. The function area can be access both internally and externally and will therefore lend itself to an element of independent use. The proposal includes a 92-space car park and the whole site is secured by perimeter fencing.

The building proposed is a contemporary design and is predominately two storey however a feature tower rises from the main roof to house the climbing wall. Due to the complexities of the design and shape of the roof of the building the roof heights vary significantly. The maximum ridge height is 13.7 metres to the tower and 10.9 metres to the main sports hall. The building has been designed to appeal to young people and is proposed to be of brick/block construction to eaves level with a metal profiled roof above. The roof is a key design element of the building and is comprised of a series of curves that rise to the highest point, being the tower for the climbing wall.

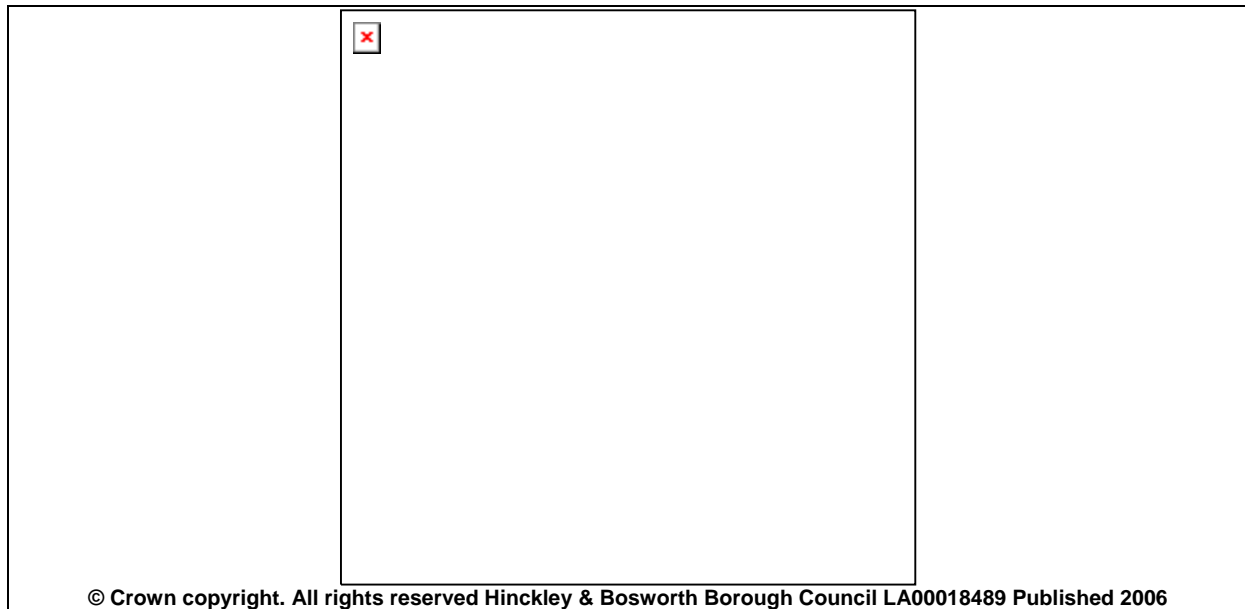
The application is accompanied by a design and access statement, flood risk assessment, transport assessment, noise impact assessment and landscaping scheme, which all seek to demonstrate that the development will have no adverse effect on the surrounding area, nearby occupiers, the highway network and other environmental factors.

Due to the scale of the project and the funding processes involved, the design and layout has altered a number of times through the application process and re-consultation has taken place following each subsequent change.

The application does not specify any hours of use of the building and the facilities proposed.

History:-

None.



Consultations:-

No objection has been received from:-

Sport England
The Leicestershire Constabulary Crime Reduction Officer
Leicestershire and Rutland Playing Field Association
Director of Community Services (Archaeology)
Director of Community Services (Ecology).

No objection subject to conditions has been received from:-

The Environment Agency
Director of Highways, Transportation and Waste Management (Highways)
Head of Community Services (Land Drainage)
Head of Community Services (Pollution).

No response received from:-

Head of Corporate and Scrutiny Services (Green Spaces)
Cyclist Touring Club
Ramblers Association
Leicestershire Fire and Rescue.

Site notice and Press notice were displayed and neighbours notified.

One neighbour letter of objection has been received on the grounds of possible noise disturbance from the bar and people coming and going to the facility.

The developer of the adjacent residential development, Cartwright Homes, objects to the application due to its proximity to the partially constructed apartments on their site. They believe the development represents bad planning.

Policy:-

National Planning Guidance

PPG17 sets out the Government's commitment to the need for sport and recreation development and seeks to deliver rural renewal, social and community inclusion, health and

well-being and promotes sustainable development. The PPG encourages development for sport and recreation in appropriate locations.

Local Plan Policy

The site is defined as a recreation site within the adopted Hinckley and Bosworth Local Plan and the provisions of Policy REC1 apply. Policy REC 1 supports the redevelopment for alternative uses where either the developer provides an equivalent range of replacement facilities in an appropriate location serving the community, or provides adequate proof that there is a surplus of recreational land and or facilities beyond the needs of the community or the redevelopment of a small part of a larger site in recreation use would result in the enhancement of the facilities on the remainder of the site.

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.

Policy T5 requires all new development to achieve the relevant highway standards and vehicle requirements contained with the County Councils design guidance Highways Transport and Development.

Appraisal:-

The main considerations with regards to this application are the principle of development, siting, design, impact on neighbours, access/parking, drainage/flooding and pollution.

Principle of Development

The site lies within the settlement boundary for Hinckley and therefore there is a presumption in favour of development providing all other policies and planning matters are appropriately addressed.

The development of existing recreation sites is strictly controlled by Policy REC1 of the adopted local plan and the policy supports the redevelopment of the site where the requirements of the policy are met, either singularly or altogether. In this case, it is considered that the development proposed, though the scale of the facilities proposed and the wider recreational interest and improvement in the usability of Richmond Park that will arise, is considered to be in line with the requirements of Policy REC1. The development is considered to exceed the policy requirements of providing an equivalent level of facilities.

The overall enhancements at the site, resulting from this proposal and the Council's wider improvement programme attached to this development include:-

- 3 x senior football pitches – new drainage improvements to all pitches
- 1 x cricket wicket
- 1 x new toddlers play area
- 1 x new MUGA
- Improved footpath
- Improved soft and hard landscaping
- Changing room's facia improved
- Additional facilities contained within the Club's grounds
- 1 x less than 12's football pitch
- 1 x 5-a-side synthetic pitch
- Skate park
- BMX track
- Basketball 1-on-1 court.

This improvement is further recognised through Green Spaces Strategy Qualitative Audit, which indicates that in 2004 Richmond Park scored 41.2%. This audit was carried out in line

with recommendations made within Planning Policy Guidance 17 and with these proposed improvements this score rises to 73.5%. The results of this audit conforms the overall improvement of the usability of Richmond Park following this development.

Additionally, the development of a new build facility on Richmond Park would add value to the surrounding site as the Park is under used at present, leading to problems of anti social behaviour and general misuse of the area and through a greater visual presence on the site would enable the community to feel safer and such a presence would assist in deterring anti social behaviour.

In further support of the proposal, Sport England, via their consultation response, agree that the additional sporting facilities, including the qualitative improvements to the drainage of the park would be of sufficient benefit to the development of sport as a whole to outweigh the loss of part of the playing fields.

The development will not result in the loss of any existing play equipment at Richmond Park. Part of the site was previously used to accommodate ageing children's play equipment. However as part of the Council's commitment to improving the facilities available at the park, this equipment was replaced and is now sited in the southwest corner of the site.

Siting

The development is sited in the southeast corner of Richmond Park and is adjacent to the existing vehicular access to Richmond Road and Tudor Road. Whilst objection has been received to the proposed siting being too close to existing residential properties, the siting is considered to be appropriate for the following reasons:

- a) it allows for the easiest access both by vehicles and pedestrians due to its position adjacent to the access from Richmond Road.
- b) it does not compromise or result in the loss of the existing car parking provision on the site.
- c) it does not compromise or result in the loss of the existing newly sited play equipment at Richmond Park.
- d) it does result in the unnecessary loss of the open space at Richmond Park, through the need to provide access roadways etc.

The design of the club building and the siting of the facilities proposed have been carefully considered to prevent unnecessary impact on residential amenity.

Design

The club building is designed to meet the needs of its users but also to compliment the surrounding area and the sites constraints. Principally the building is a large rectangular structure, however through the use of varying heights and projections; it results in an interesting and iconic building. The building's curved roof structure is such that it very much part of the character of the building and forms a key element of the overall design. A series of curved sections make up the roof structure, including the tower section for the climbing wall.

Due to the scale of the building and its individual design, the materials used in the construction are an integral element of the overall design. Whilst details have been provided of a palette of materials have been submitted with the application, samples of the materials have not been provided. The principle for metal roofing, exposed glue-lam timber beams, timber cladding, coloured blockwork with brick detailing and large areas of glazing are all acceptable, however samples will be required to ensure the highest quality finish is achieved.

The building includes a number of sustainable technologies, including ground source under floor heating, solar water heating, energy efficient sensor controlled lighting, heat recovery

and mechanical ventilation. Whilst the inclusion of these technologies is not a formal planning requirement, the provision of such technology indicates that a comprehensive and sustainable design process has been adopted in the preparation of this scheme.

Impact on Neighbours

The design of the building has evolved integrally with the siting and therefore takes account of the sites constraints, particularly in so far as the impact on the surrounding residential properties. The south of the building (that elevation facing the rear of properties on Tudor Road) is principally of single storey design, 5 metres in height. This elevation contains a small number of windows that serve an office and meeting room, therefore minimising any impact on the gardens and rear elevations of the properties adjacent. As series of solid emergency exit doors are proposed in this elevation.

The east elevation of the building (the elevation facing the Cartwright Homes development) is 10.8 metres high at the highest point of the roof, however there are no windows in the elevation at all. Objection has been received from Cartwright Homes; in so far as they consider the development to be bad planning because of its scale and proximity to the apartments where construction has commenced adjacent to the boundary. The club building is sited at an angle whereby the principal elevation (the elevation that faces Richmond Park) of the adjacent apartment building looks across the rear elevation of the club building, rather than at the side elevation. There is 17 metres of separation that exists between the two elevations at the closest points is considered acceptable to not result in an overbearing form of development. Furthermore, the fact that the elevation has no windows helps to mitigate any perceived impact from the building.

Highway Issues

Access to the site is from the existing vehicular access to Richmond Park from Richmond Road. The existing Richmond Park car park remains unaffected by this proposal and an additional 92 off-street car parking spaces are to be provided within the site.

The amount of car parking has been subject to some discussion between the applicant and the Highway Authority; however an agreement has been reached in respect of the amount provided due to the details of the proposed operation of the facility that the applicant has provided. In addition the applicants Transport Assessment has been redrafted to specifically address the initial concerns of the highway authority about the uses proposed on site and the implications this will have on parking provision and highway safety in the locality. In addition to a number of highway related conditions attached to this recommendation, a green travel plan will be required to consider alternative transport options to the site, in the wider interest of community sustainability.

The Highway Authority in their consultation response have asked for a number of additional conditions relating to developer contributions, control over when parts of the site will be used and details of the already commenced highway improvements to Richmond Road, to be attached to this recommendation. However these conditions have been carefully scrutinised in light of tests set out in Circular 11/95 and have been found to be unreasonable and unenforceable.

In addition it should be noted that highway improvements to Richmond Road are currently taking place which will further improve access to this and are already under the control of the Highway Authority.

Drainage/Flooding

The application is accompanied by a flood risk assessment and the Environment Agency have confirmed that there is no objection to the proposal subject to the imposition of conditions in respect of the mitigation measures specified in the submitted assessment.

Accordingly, the Environment Agency is satisfied that the development poses no flood risk. The Agency also confirms that oil and petrol separators will also be required to protect the water environment.

Noise

The first floor bar and function room, by way of its use for entertainment proposes and the hours it is likely to be used, may be considered to be a possible source of disturbance to nearby residential properties. The bar and function room area is located on the first floor of the building on the north side that overlooks the main park area and includes a covered balcony area. The applicant has confirmed that whilst the balcony area is proposed to allow for outdoor socialising, loud music transfer outside of the building via the balcony area is unlikely occur as a sound traffic light and cut out system being included within the function area. This system will warn of excessively loud music, which will cut out the power supply to the audio equipment to prevent the noise continuing.

The Head of Community Services (Pollution) raises no objection to the principle of the development or the function room area but does require a number of matters to be controlled by conditions of any approval to ensure that the development does not become detrimental to the amenities of nearby residents.

Discussions are continuing between the applicant and the Head of Community Services (Pollution) in respect of an outstanding issue concerning noise transfer outside of the building via the first floor balcony. The results of these discussions will be reported as a late item.

The application does not specify any hours of use for the proposed building or the outdoor facilities, however the applicants agent has confirmed that due to the existing uncontrolled recreational use of the site, they do not feel it appropriate to restrict the hours of operation for a similar use. The agent has confirmed that the entertainment facilities, in particular the bar, will be controlled by the Licensing Act due to the sale of alcohol.

The hours of use of such a facility would normally be subject to formal controls, however due to the existing uncontrolled use of the park, it would be unreasonable to seek to control a similar use. The entertainment facilities do represent the introduction of a new use on the site which may give rise to complaint from adjacent occupiers, however the Licensing Act will give due consideration to amenity as part of any license being issued and will adequately control the issues of adverse impacts on residential amenity

Conclusion

This proposal seeks to create a very high quality community facility that not only provides a vast array of facilities for young people but also compliments the facilities and setting of Richmond Park. The location of the facility is such that it will be to the benefit of residents of Hinckley but because of its position close to the edge of the urban area, it will also be easily accessible from further afield. The proposal by way of its high quality an innovative design results in a positive contribution to Richmond Park, the surrounding area and the hierarchy of recreation facilities within Hinckley and the Borough. Notwithstanding these benefits, the proposal responds to the sites constraints positively.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan and would not be to the

detriment of residential amenity, highway safety, the character of the surrounding area and the provision and availability of recreation at this site.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, REC1, T5, NE13, NE14 & NE2

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 This permission relates to the application as revised by amended plans E9715(D)07F, received by the Local Planning Authority on 31 March 2009 and plans E9715(LP)01K, 03G, 02L, 2008/139/E/108/Rev E and SF1561-LL01 Rev E received by the local planning authority on 21 April 2009.
- 3 Notwithstanding the details submitted, before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed building shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 Notwithstanding the details submitted, no development shall commence until such a time as full construction details, including sections, of the proposed BMX and Skate park have been submitted to and approved in writing by the local planning authority. The development shall then proceed in accordance with the approved details only unless otherwise agreed in writing by the local planning authority.
- 5 Before the first use of the facility hereby permitted, the boundary treatments as shown on the approved plans shall be fully implemented and maintained thereafter.
- 6 The soft landscaping scheme hereby approved, shall be fully completed by the end of the first planting season following the first use of the facility hereby approved. 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 details submitted, there shall be no radio, audible device or public address system fitted within the outdoor youth shelter or anywhere on this site.
- 8 Within 3 months of the commencement of the development hereby approved, details of the entrance screen and gates to be erected in front of the existing Pavilion and at the access to the site shall be submitted to and agreed in writing by the local planning authority.
- 9 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) Revision A, dated March 2009, undertaken by WM Saunders Partnership LLP and the following mitigation measures detailed within the FRA:
 1. Section 6.1. Limiting the surface water run-off generated by all events up to the 1 in 100 plus 20% (for climate change) critical rain storm to 7l/s so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
 2. Section 6.3. Provision of a minimum of 180m³ of surface water run-off attenuation within the surface water drainage scheme.
 3. Section 6.3. The ground floor level of the main building will be set a minimum of 150mm above adjacent proposed ground levels, and a minimum of 300mm above the proposed car park.

- 10 The development hereby permitted shall not be commenced until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.
- 11 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 in to use.
- 12 No development shall take place until a scheme for ventilation of all catering facilities serving 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.
- 13 No recreational or sporting activities using motorised vehicles shall be permitted on the site.
- 14 Development shall not begin until a scheme for protecting adjacent dwellings from noise from all mechanical plant on site has been submitted to and approved by the Local Planning Authority; and all works which form part of the scheme shall be completed before any of the permitted development comes in to use.
- 15 No development shall commence until details of a scheme to prevent the breakout of noise from the function room to the terrace and from the music room has been submitted to and approved by the Local Planning Authority; all works, which form part of the scheme, shall be completed before the use commences.
- 16 Notification of the commencement date of any site investigation work relating to potential contamination should be given in writing to the Local Planning Authority not less than 14 days before such work commences and no development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination in the area to be used for allotments has been submitted to and agreed in writing by the Local Planning Authority, which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 17 Notification of the commencement of development should be given in writing not less than 14 days before development commences.
- 18 Before first occupation of the development hereby permitted, the parking and turning facilities, as shown on the approved plans, shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times. The parking spaces shall remain available for vehicle parking thereafter.

- 19 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.
- 20 No part of the development shall be brought into use until details of a Green Travel Plan containing a travel, 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 plan shall comprise proposals to reduce car dependence and vehicle emissions and to establish and encourage the use of alternative transport modes for journeys to and from the premises. 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. Prior to the first use of the facility hereby approved, it shall be implemented and subject to regular review in accordance with the above approved details.
- 21 Before the development hereby permitted is first used, the cycle parking facilities shall be provided in accordance with the approved plan and remain available for the parking of cycles thereafter.
- 22 The hard landscaping as shown on plan ref: SF1561-LL01-Rev E hereby approved, shall be fully completed prior to the first use of the facility hereby approved and maintained thereafter.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To define the permission.
- 3 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 To define the permission and to ensure that the true extent of the works necessary are appropriately considered to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 5&6 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 7 The site is located within close proximity to residential properties and the installation of such audible devices is likely to be to the detriment of residential amenity, contrary to the requirements of Policy BE1 of the Adopted Hinckley and Bosworth Local Plan.
- 8 To define the permission.
- 9 To prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site, in accordance with the requirements of Policies NE13 and NE14 of the Adopted Hinckley and Bosworth Local Plan.
- 10 To protect the water environment, in accordance with the requirements of Policies NE13 and NE14 of the Adopted Hinckley and Bosworth Local Plan.

- 11 To ensure that 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, in accordance with the requirements of Policies NE13 and NE14 of the Adopted Hinckley and Bosworth Local Plan.
- 12-15 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 16 To protect the environment of future occupiers of the site and the water environment in accordance with Policies BE1, NE2 and NE13 of the Hinckley and Bosworth Local Plan.
- 17 To allow the Council to be aware of the commencement of development in line with the requirements of the previous condition, to protect the environment of future occupiers of the site and the water environment in accordance with Policies BE1, NE2 and NE13 of the Hinckley and Bosworth Local Plan.
- 18 To enable vehicles to enter and leave the site in a forward direction and to provide adequate off street car parking in the interests of the safety of road users and the requirements of Policy T5 of the Adopted Hinckley and Bosworth Local Plan.
- 19 To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users, in accordance with the requirements of Policy T5 of the Adopted Hinckley and Bosworth Local Plan.
- 20 To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to and from the site, in the wider interest of highway safety and sustainability.
- 21 In the interests of the sustainability of the development and to encourage alternative transport choice.
- 22 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody

or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency. Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.

- 6 In relation to conditions relating to ground contamination advice should be sought from Environmental Health on 01455 238141. This is to ensure that any scheme submitted shall be in accordance with current guidance and policy
- 7 Elements of the proposal are situated in excess of 45 metres from the Highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
- 8 The Developer will be required to enter into an agreement with the Highway Authority under Section 278 of the Highways Act 1980 for works within the highway and detailed plans shall be submitted and approved in writing by the Highway Authority. The Section 278 Agreement must be signed and all fees paid and surety set in place before the Highway works are commenced.

Contact Officer:- James Hicks Ext 5762

Item: 06

Reference: 09/00140/REM

Applicant: Jelson Ltd

Location: Land Outlands Drive Hinckley Leicestershire

Proposal: APPROVAL OF RESERVED MATTERS FOR OUTLINE PERMISSION
05/00335/OUT

Introduction:-

This is a reserved matters application for the final phase of the residential development approved in outline for 375 dwellings off Outlands Drive, Hinckley. This application seeks approval for 246 residential units in areas defined as Area A and Area C in the design and access statement submitted with the original outline application (05/00335/OUT).

Both areas comprise of a mix of detached, semi-detached and terraced dwellings and associated estate roads, footpaths and hard and soft landscaping. Area A incorporates 66 units and an area of public open space, which retains the existing trees and hedges at the foot of the steep bank around the southern end of Wykin Park. Area C incorporates 180 units, with a pedestrian and cycle link 'green route' connecting Wykin Park to the public open space known as 'Barstone', and a significant green open space and improved pedestrian priority cross-over across Outlands Drive.

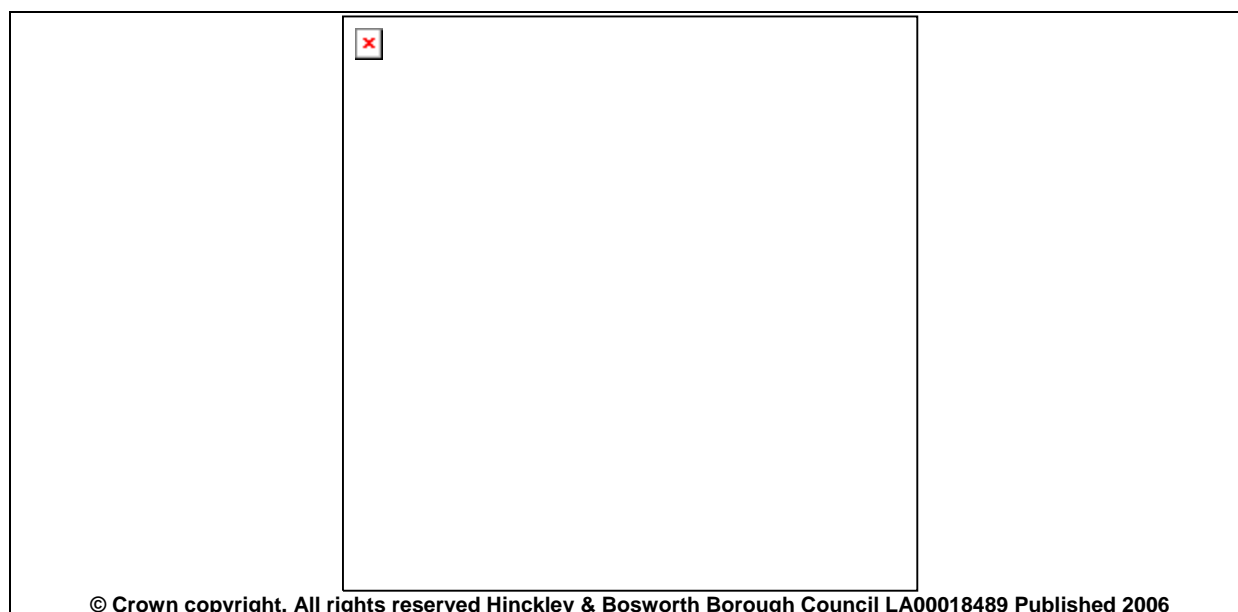
The application was accompanied by a detailed design and access statement, acoustic survey and landscaping scheme.

The Design and Access Statement examines the original basic design principles. It considers streetscape, character, vistas, landmarks, public spaces, movement, parking and

green space. A landscaping plan, arboricultural report and street scenes have also been submitted.

History:-

08/00717/REM	Erection of 76 dwellings including diversion of public footpath	Approved	01.10.08
08/00360/REM	Erection of 72 No. dwellings	Withdrawn	12.06.08
08/00030/REM	Three storey block (plots 17-19) with revised roofline and window detail	Approved	28.05.08
08/00002/TPO	Works to trees	Approved	22.01.08
07/00441/FUL	Substitution of House Types (plots 17-19)	Approved	18.07.07
06/00473/REM	Erection of 53 Dwellings	Approved	18.07.06
05/00335/OUT	Erection of 375 dwellings and estate roads, footpaths and cycle routes and landscaping	Permitted	29.03.06
05/00336/FUL	Erection of fifty six dwellings	Withdrawn	25.04.06
05/00011/OUT	Erection of 375 dwellings and estate roads, footpaths and cycle routes and landscaping	Withdraw	04.05.06
03/00346/OUT	Residential Development	Refused	25.06.03
01/00338/OUT	Residential development	Dismissed Appeal	09.05.04



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Consultations:-

No objections have been received from:-

Highways Agency
Central Networks.

No objection subject to conditions have been received from:-

Head of Corporate and Scrutiny Services (Green Spaces)
Head of Community Services (Pollution)
Director of Community Services (Ecology)
Natural England
Severn Trent Water
Sport England.

Director of Community Services (Rights of Way) raises no objection to the proposal and requests that an application be made for the official diversion of the routes shown on the submitted plan in the event of planning permission being forthcoming.

Leicestershire and Rutland Playing Fields Association requests that the development is in accordance with the National Playing Fields Association 'Six Acre Standard'.

The Leicestershire Constabulary Crime Reduction Officer has no objections in principle but provides observations on surveillance of communal spaces and access routes.

Head of Community Services (Land Drainage) states that there is no indication on the submitted plans as to how the natural drainage of areas A and B, presently served by a continuity of ditches, will be managed following development. Advice is given on possible solutions.

Site notice and press notice were displayed and neighbours notified.

One letter of representation has been received stating no objection but raising the following concerns:-

- a) boundary treatment not considered
- b) original proposal indicates a similar property located along side.

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

Director of Highways, Transportation and Waste Management (Highways)
Environment Agency
Ramblers Association
National Grid
East Midlands Sports Council
Leicestershire Badger Group
Cyclists Touring Club.

Policy:-

Local Plan

The site is allocated in the adopted Hinckley and Bosworth Local Plan for residential purposes.

Policy IMP1 of the local plan ensures that appropriate contributions towards the provision of infrastructure and facilities are made which are commensurate with the scale and nature of the development proposed.

Policy REC2 of the adopted Hinckley and Bosworth Local Plan requires provision to be made for formal recreation for proposals of 20 dwellings or more. Provision can be in the form of on-site provision or a financial contribution towards off-site facilities.

Policy REC3 of the adopted Hinckley and Bosworth Local Plan requires provision to be made for informal children's play space. Provision can be in the form of on-site provision or a financial contribution towards off-site facilities.

Policy RES1 of the local plan states that planning permission will be granted for this site for residential development.

Policy RES1 (l) and (m) give specific criteria to be met which requires a comprehensive layout for the whole of the site with a range of house types and densities, provision for pedestrian and cycle links and respecting existing natural features particularly safeguarding protected trees.

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

Policy NE12 of the local plan seeks to ensure that landscaping forms an integral part of the scheme.

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

Other Guidance

The Borough Council's adopted Supplementary Planning Guidance on New Residential Development (July 1997) provides further guidance for developers on density, design, layout, space between buildings and landscaping/boundary treatments along with highways and parking. The main aims of the guidance are to ensure that new developments are well integrated into their surroundings and offer a good standard of security and amenity to future residents whilst protecting the amenity of existing occupiers. Housing developments should make efficient use of land and be of appropriate density taking into account the general character of the surrounding area and the provision of necessary open spaces. Layout should seek to maximise amenity and visual interest and provide safe and convenient vehicular and pedestrian access.

The Borough Council's Adopted Supplementary Planning Document on Sustainable Design (April 2008) aims to significantly contribute towards achievement of the Hinckley & Bosworth, saved Local Plan policy BE1 and development control decisions. The document offers best practice guidance to developers in the processes of their designs whilst requiring an effective contribution of sustainable energy on each new building across our Borough. Achievement of this will enable us to make a valuable impact in reducing our harmful emissions and helping adapt to and mitigate against the effects of climate change.

Appraisal:-

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

The main considerations with regards to this application are density, layout, design, highway, landscaping, ecology and residential amenity.

Density, Layout and Design

The key urban design precedents were laid down at outline stage and these have been followed through to the detailed design stage. The design and access statement submitted with the outline application proposed that the differing characters of Areas A, B and C would be enhanced by means of different densities of development. The target densities suggested:

Area A 20 dwellings per hectare
Area B 35 dwellings per hectare
Area C 30 dwellings per hectare

Area B was granted reserved matters approval in October 2008 for a total of 129 units resulting in a development density of 29.5 units per hectare. This reserved matter application proposes that the remaining 246 units be split between the two character areas, with Area A comprising 22.6 dwellings per hectare and Area C 27.7 dwellings per hectare. A total of 375 dwellings across all three character areas results in an overall density of 35.79 dwellings per hectare which is in accordance with the outline planning permission.

The scheme submitted proposes a development that has carefully considered the quality of the environment and the public realm which includes views and vistas along with a permeable and legible layout. The proposal provides a mix of dwelling styles and designs. These include flats, 2 and 2.5 storey dwellings, detached, semi-detached and terraced properties providing a choice of accommodation to meet current government guidance.

The layout also incorporates a hierarchy of routes, created by variations in highway width and surface treatment. The properties have been designed to face onto the road frontages and various open spaces which provide both natural surveillance and attractive street scenes.

Affordable Housing

The outline planning permission requires a total of 75 affordable units, 25 of those units have been provided in Area B. The affordable housing forming part of this scheme includes:-

- Area A - 6 two bedroomed dwellings and 6 three bedroomed dwellings.
- Area C - 9 one bedroomed flats, 23 two bedroomed dwellings and 6 three bedroomed dwellings.

Due to the affordable housing matters being considered at outline stage the current Supplementary Planning Document on Affordable Housing cannot be applied in this instance.

Highway

Parking has been provided across the site by either private parking adjacent dwellings, shared parking courts or designated on street bays. The parking provision is between 1.3 and 1.5 spaces per dwelling which is in accordance with the outline approval. The County Highway Authority raised minor concerns relating to road layout and treatment and amended plans have been submitted in order to resolve those issues. Further comments are awaited and will be reported as a late item.

Public Footpaths

The County Council still has an outstanding application for the making of a Definitive Map Modification Order under the provisions of Section 53 of the Wildlife and Countryside Act 1981. The application seeks to add to the Map as public footpaths those routes indicated by broken purple lines on the plan illustrated on Page 10 of the Design and Access Statement. The submitted plans indicate the replacement of the routes by the ones shown solid red on the plan. The Rights of Way Officer has confirmed that an appropriate course of action for addressing the routes within the confines of the application site has been agreed with the applicant and as a consequence does not consider it appropriate to oppose the granting of planning permission. The applicant has advised that a further application for the official diversion of the routes will be submitted and is aware that no development directly affecting those routes would be able to be commenced until the Diversion Order had become operative.

Landscaping and Play and Open Space

A landscaping scheme has been submitted as part of the proposal which follows the design principles set out in the outline permission. This is provided in 6 distinct areas with a tangible visual amenity to the development and will create an attractive environment. The newly created public open space in the centre of Area C includes the protected trees and the land drain.

Ecology

An ecological assessment was submitted with the outline planning application and a condition (18) was imposed to ensure that 'updates' are carried out at each phase of development and any necessary mitigating works carried out in accordance with the approved scheme. An initial habitat assessment was carried out in 2002 and further updates have been produced which indicate that there is little evidence that protected species currently inhabit the site. The reports have been reviewed by the County Ecologist and have been considered satisfactory. No objections have been raised by Natural England or County Ecology however, further advice has been provided in respect of the treatment of areas which are of particular importance in terms of ecological value and a condition is imposed to

secure the detail of these areas. Condition 18 of the outline planning permission secures the submission of further assessments.

Impact on residential amenity

Area A is located to the east of the Hinckley Northern Perimeter Road (A47). Wykin Park and the public open space (identified on the submitted plan as POS 01, POS 02 and POS 03) are situated between the proposal and the existing properties to the north and the previously approved development in Area B. Both the existing properties on Marcian Close and proposed properties in Area A front onto Outlands Drive. Given the distances between the units, residential amenity is not considered to be affected.

A substantial amount of the properties proposed along the western and eastern boundaries of Area B have rear gardens which back on to rear gardens of existing properties. Where the orientation and properties are side on, the layout and relationship (including elevations and window detail) has been considered and is in accordance with supplementary planning guidance.

Contributions

The Section 106 agreement sealed at outline stage requires contributions to be made towards play and open space, education, community facilities, public realm, civic amenity, highway improvements, health and affordable housing. The affordable housing provision includes 67 social rented dwellings and 8 shared ownership dwellings to be provided within the wider development.

Conclusions

The application proposes the development of a site allocated for residential in the adopted local plan and has outline planning permission; therefore it is considered acceptable in principle. The scheme creates a development that has carefully considered the mix of dwellings, quality of the environment and the public realm and is therefore considered acceptable.

RECOMMENDATION:- That 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.

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Having regard to the pattern of existing development in the area, density, layout and design of the proposal, landscaping provision, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan, would not materially harm the character or appearance of the area or the living conditions of neighbouring occupiers and would be acceptable in terms of traffic safety and convenience.

Hinckley & Bosworth Borough Council Local Plan (2001) :- IMP1, REC2, REC3, RES1, BE1, NE12 and T5.

- 1 The development shall be carried out strictly in accordance with the conditions set out in the outline planning permission 05/00335/OUT except as may be modified herein.
- 2 Notwithstanding the acoustic information submitted where the "reasonable" standard specified in Table 5 of BS8233:1999 (Sound insulation and noise reduction for buildings-code of practice), can only be met with windows closed, habitable rooms will

be fitted with acoustically attenuated active ventilators approved for use under the Noise Insulation Regulations 1975 or alternative ventilation systems of equal acoustic and cooling performance. Prior to development commencing on site, a scheme for an acoustic barrier, window specifications and ventilation shall be submitted to and approved in writing by the LPA. The scheme shall identify the plots where the measures are proposed and be carried out in accordance with the approved details.

- 3 Notwithstanding the submitted landscaping information no development shall commence on site until further details of 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) means of enclosure;
 - (ii) surfacing materials;
 - (iii) refuse and pump station units;
 - (iv) written specifications, including protection plans from root damage
 - (v) implementation programme including work schedule.

Reasons:-

- 1 For the avoidance of doubt.
- 2 To safeguard future amenities of residential properties 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.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 You are reminded of the conditions attached to the outline planning permission which include landfill gas measures.
- 6 The following plans have been considered in the determination of this application:-
Dwg No. 201 (House type OD 60)
Dwg No. 202 (House type OD 75A)
Dwg No. 203 (House type OD 77 RA)
Dwg No. 204 (House type OD 77)
Dwg No. 205 (House type OD 90)
Dwg No. 206 (House type OD 90 LM)
Dwg No. 207 (Flats OD41 and 66)

Dwg No. 208 (House type OD 80.6)
Dwg No. 209 (House type OD 100)
Dwg No. 210 (House type HF 130)
Dwg No. 211 (House type HF 140)
Dwg No. 212 (House type HF 150)
Dwg No. 213 (House type 3T8A)
Dwg No. 214 (House type 4D68)
Dwg No. 215 (House type 4D70)
Dwg No. 216 (House type 4D74)
Dwg No. 217 (House type 4D76)
Dwg No. 218 (House Type 5D11)
Dwg No. 219 (Block of 9 flats)
Dwg No. 220 (Flats type 66)
Dwg No. 000 (Location Plan)
Dwg No. 101 Rev E (Proposed Plan Area C)
Dwg No. 102 Rev. C (Proposed Plan Area A)
Dwg No. 103 (Proposed Street Scene)
Dwg No. 104 (Proposed Street Scene)
Dwg No. 105 (Proposed Street Scene)
Dwg. No.106 (Section Paths)
Quad Garage (Side face quad)
Triple Garage (Side face triple)
Dwg No. G14 (Single garage)
Double garage (Side face double)
Single garage (Side face single)

- 7 The applicant's attention is drawn to the attached comments of Central Networks.
- 8 The applicant's attention is drawn to the attached comments from Natural England which should be read in conjunction with Condition 18 of the Outline Planning Permission.
- 9 You are advised that you are required by legal obligation to ensure that the existing public footpath route remain accessible and in a satisfactory condition for pedestrians to use, until such time as the Diversion Order has been brought into operation.

The applicant's attention is drawn to the attached comments from the County Council's Rights of Way Officer.

Contact Officer:- Cathy Horton Ext 5605

Item: 07

Reference: 09/00176/COU

Applicant: Keys Childcare Ltd

Location: Wiseacre Leicester Lane Desford Leicester Leicestershire LE9 9JJ

Proposal: CHANGE OF USE FROM CLASS C3 DWELLING HOUSE TO CLASS C2 CHILDRENS CARE HOME (AMENDED SCHEME) INCLUDING ALTERATION TO SITE ACCESS

Introduction:-

This application seeks full planning permission for the change of use of an existing dwelling (Class C3) to a children's care home (Class C2). Members may recall that planning

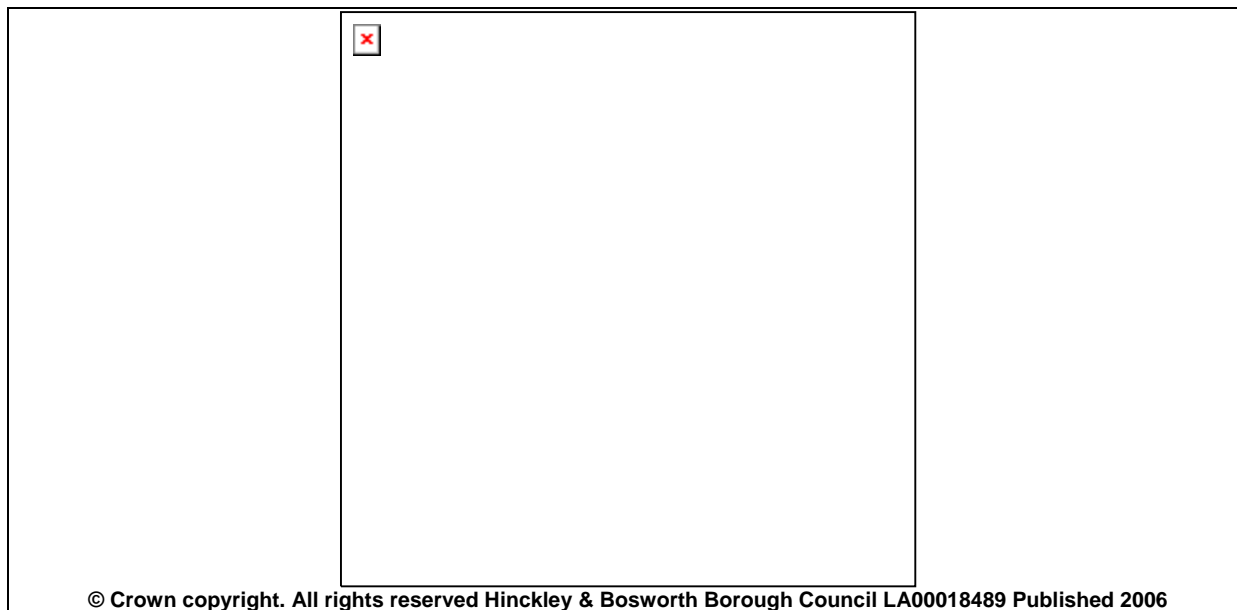
permission for the change of use of the premises for such purposes was approved in July 2008 (reference No. 08/00500/COU) subject to a number of conditions. This is an amended scheme that incorporates the relocation of the vehicular access to a central position on the site's 45 metres-long frontage. This application has been submitted to address problems encountered in achieving the visibility splays required by condition 3 of the previous planning permission in relation to the existing vehicular access due to uncertainties in respect of the control of land to the fore of the adjacent dwelling known as Stud Farm. No significant changes to the external appearance of the dwelling itself are proposed. An amended plan has been submitted in respect of minor amendments to the proposed new access.

The property is located to the north side of Leicester Lane, approximately 1.2 miles to the east of Desford. It is within a ribbon development of residential properties along either side of Leicester Lane. The dwelling is a detached dormer bungalow with six bedrooms and six reception rooms located in a substantial plot (approximately 0.3 hectares) with gardens to the front and rear. In addition there is a double garage and a car parking area capable of accommodating over 5 vehicles. The existing vehicular access off Leicester Lane is located adjacent to the western boundary with Stud Farm. A new 1 metre high close boarded fence has been erected across the site's frontage replacing a tall conifer hedge that was much closer to the highway. There is substantial mature hedging and fencing to the side boundaries. To the rear boundary (north) there is a low-level hedge with open fields beyond.

A Planning Statement has been submitted to support the application. This states that the applicant operates a number of care homes throughout the country that provide specialist care for children who, for a variety of reasons, cannot be cared for by their parents. The current application differs from that previously approved in that it is proposed to move the site access in addition to the change of use. The principle of the change of use to a children's care home has been established therefore the only issue to consider is whether the alternative access arrangement proposed in this application is acceptable. The proposed new access would be 5 metres in width, with 4.0 metre radii to either side. Visibility splays of 2.4 metres by 45 metres would be provided to either side on land that is wholly within the control of the applicant or within the highway. The proposed access has been designed in consultation with the local highway authority prior to submission of the application. The technical specification for the access has been agreed and should be acceptable in highway terms as it is a safer alternative to the existing access. The new access would also have the additional benefit of moving vehicle movements away from the boundary with Stud Farm whilst maintaining sufficient separation of approximately 20 metres to Baron Parks so there would be no significant impact on the amenities of those neighbours. The existing timber fencing is set back behind the required visibility splays and would be continued to close the existing access upon the new one being brought into use.

History:-

08/00500/COU	Proposed Change of Use from Class C3 Dwelling House to a Class C2 Children's Care Home	Approved	11.07.08
07/01374/CLU	Certificate of Lawful Use for Childcare Services	Refused	16.01.08
90/00427/4	Extension to Bungalow	Approved	29.06.90
88/01417/4	Boarding Kennels and Stabling for Own Horses and Other Farm Animals	Refused	20.12.88
84/0303/4	Cattery Units for 20 Cats	Approved	22.05.84
82/00277/4	Extensions and Alterations to Property	Approved	25.05.82



Consultations:-

No objection has been received from Head of Community Services (Pollution).

No objection subject to conditions has been received from:-

Director of Highways, Transportation and Waste Management (Highways)
Head of Community Services (Land Drainage).

Desford Parish Council comment that there are serious concerns regarding the proposed access and visibility to and from the entrance to the premises. The traffic levels along Leicester Lane are not an issue however poor visibility and maintaining the current speed limit (40mph) are. There is frequent use by farm traffic along this stretch of road which is large in size and slower moving than most other vehicles which increases the tendency to overtake, even though visibility of on-coming vehicles can be poor. Residents along Leicester Lane have learnt to try and anticipate this however irregular visitors to Wiseacre will be unaware of this hazard. Combined with the crest and hidden dip outside nearby Four Acres maximum visibility within this area for all concerned is crucial. The safety of any future residents opting to walk to any amenities also raises serious concerns due to the lack of pedestrian facilities to and from the village of Desford.

Neighbours notified, 26 letters of objection have been received raising the following concerns:-

- a) unsuitable, isolated location for the proposed use
- b) location does not meet criteria of Association of Children's Care Home for suitable sites
- c) detrimental to amenities of neighbouring properties
- d) detrimental increase in traffic, number of comings and goings and noise pollution
- e) material increase in traffic using a substandard access
- f) lack of sufficient parking within the curtilage
- g) lack of facilities within the vicinity for resident children
- h) impact on local schools
- i) lack of footpath to Desford, street lighting and public transport
- j) dangerous, busy road with hidden dips and poor accident history used by speeding traffic and slow moving farm machinery
- k) new access will not meet highway authority design guidance visibility splays for road with 40 m.p.h. speed limit and will compromise general road safety

- l) potential increase in the number of residents in the future
- m) potential behaviour of resident children
- n) potential risk to people and property.

Policy:-

Central Government Guidance

Planning Policy Statement 7 - Sustainable Development in Rural Areas - sets out the Governments objectives for rural areas and promotes more sustainable patterns of development. Paragraph 1 requires decisions on development proposals to be based on sustainable development principles ensuring an integrated approach to the consideration of social inclusion, recognising the needs of everyone. Paragraph 17 supports the reuse of appropriately located existing buildings in the countryside where this would meet sustainable development objectives. In assessing conversion of existing buildings in the countryside, consideration should be given to the potential impact upon the countryside, specific local economic and social needs and opportunities, accessibility to service centres and the suitability of buildings for reuse. Paragraph 18 states that local planning authorities should be particularly supportive of the reuse of existing buildings that are adjacent or closely related to villages for economic or community uses.

Local Plan Policy

Policy BE1 seeks to safeguard and enhance the existing environment. Development should complement the character of the surrounding area, have regard to the safety and security of both individuals and property, ensure adequate highway visibility for road users and adequate provision for off street parking for residents and visitors 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 for the change of use or re-use 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 CF8 states that planning permission will be granted to provide residential care homes where: the proposal complements the character of the surrounding area and does not have a detrimental impact upon the occupiers of nearby properties; the premises are of a suitable size and type; adequate gardens are provided to protect and enhance the amenity of residents; adequate car parking and servicing facilities are provided and future residents will have easy access to shops, public facilities and public transport.

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. Leicestershire County Council's document 'Highways, Transportation and Development' provides further guidance on highway related issues.

The Council's Supplementary Planning Guidance notes on Residential Care Homes adopted in 1997 provides further advice and aims to: guide care homes to suitable sites; ensure there is adequate provision of space around the building to protect the amenity of residents; ensure satisfactory provision of car parking and protect the amenity of adjoining residents. It states that care homes should be located in residential areas where they can blend in to the area. Care Homes, particularly for the elderly, should be located within walking distance of services and facilities. Homes should be located in properties of adequate size usually containing 6 or more bedrooms. In order to ensure that there is sufficient space around buildings to minimise their impact on adjoining properties and serve the needs of the

residents, detached properties are considered most suited for this use and that the local planning authority may impose conditions restricting the number of residents.

Appraisal:-

Principle of Development

The principle of the use of the dwelling as a children's care home has been established by the extant planning permission that approved a change of use for such purposes in July 2008. Both central government guidance (in PPS7) and policy NE5 of the adopted Local Plan support the reuse or change of use of suitable existing buildings within rural locations, particularly for economic or community-type uses subject to certain criteria being complied with. The dwelling is suitable in terms of its size and type for the proposed use and in these respects also meets most of the relevant criteria of policy CF8 of the adopted Local Plan and the Council's SPG on Residential Care Homes. The property would maintain the visual appearance of a large family dwelling and the proposed development would not therefore have any significant impact upon the appearance or character of the area. The proposed use and level of occupancy of the premises would not be over and above that reasonably expected of a dwelling of this size and the large gardens provide adequate outdoor play space for the resident children and separation from adjacent dwellings. It is therefore unlikely that the proposed use of the property would have a detrimental impact upon the amenities of the occupiers of neighbouring properties. The main consideration with regards to this application is therefore the acceptability of the proposed new vehicular access in terms of highway safety.

Highway Issues

The existing vehicular access off Leicester Lane is located at the western boundary of the site adjacent to Stud Farm. There is only a grass verge and no footway on this side of the highway. Whilst the applicants have made significant improvements to visibility to the east by removing a conifer hedge and setting the boundary fencing further back from the highway, visibility to the west (Desford) is severely restricted to approximately 2 metres by 10 metres by existing vegetation to the fore of Stud Farm. It is the existence of this vegetation that prevents the applicants from achieving the 2 metres by 120 metres visibility splays required by condition 3 of the previous planning permission and to meet the highway authority design guidance in 'Highways, Transportation and Development'. As there is uncertainty over the control of this land and the vegetation thereon, an alternative solution to improve visibility has been proposed. The relocation of the access to a central location would enable visibility of 2.4 metres by 45 metres to be achieved in both directions over land either in control of the applicant or within the highway. The planning history of the site includes a previous application for a commercial cattery on the site that was granted planning permission subject to a condition requiring the provision of a new, centrally-located access similar to that now being proposed.

Given that the age of the children to be accommodated would be up to 17 years, the traffic generated would include trips to and from school etc. and the comings and goings of the carers and any other visitors to the property. As such, it is unlikely that the level of comings and goings from the proposed use would be detrimental to the occupiers of neighbouring dwellings in terms of traffic disturbance. In addition, the relocation of the access to a central position would reduce any impact of traffic movements on Stud Farm whilst maintaining adequate separation of approximately 20 metres to Baron Parks. Within the curtilage of the property there is a double garage together with additional parking for at least five cars together with turning facilities. This would appear to be adequate for the proposed use of the property but additional parking could be provided within the curtilage if it was considered necessary.

The Highway Authority confirm that pre-application discussions with the applicant have indicated that if a central point of access could be provided with 2.4metres x 45 metres

visibility splays in either direction (which is the maximum achievable) then they would still be in a position to look favourably upon the proposed change of use. The Highway Authority advise that whilst the splays are less than those previously required to improve the existing access and do not meet the usual Leicestershire County Council access design standard for a road subject to a 40mph speed limit, they do nevertheless represent a significant improvement over and above the existing situation. On balance, having taken into account the proposed use, the nature and level of occupation of the premises, the speed of traffic using Leicester Lane and the accident history in the vicinity of the site, the Highway Authority considers that the overall visibility provided by the proposed new access would be a significant improvement to that provided by the existing access. As such the Highway Authority is not in a position to recommend or seek refusal of the application on highway safety grounds. A number of conditions are recommended to ensure that the access and visibility splays are set out, constructed and maintained to the proposed specifications and in accordance with the highway authority's design guidance.

Other Issues

Whilst the property is within a residential area, its location is somewhat remote in terms of access to shops and other public facilities and amenities and access by walking or cycling could be considered to be less than ideal in view of the nature of the road, volume and speed of traffic and lack of footways and street lighting and public transport. However, the premises are considered by the applicant to provide an ideal environment and rural location for the proposed residents in their care. There is also concern from neighbours regarding the potential behaviour of the residents of the proposed facility but there would be 24 hour staff supervision of the site and this should not prejudice consideration of the application in terms of its planning merits.

Conclusion

The change of use of the dwelling to a children's care home has been approved in principle and would not be detrimental to the appearance or character of the area. The proposed use is unlikely to be detrimental to the amenities of the occupiers of neighbouring properties given the size and type of the dwelling, its extensive surrounding amenity space that is well screened and the level and nature of its proposed occupation. The Highway Authority considers that the provision of the new access would provide significant improvements to overall visibility compared to that provided by the existing access and would not seek refusal on highway safety grounds. The application is therefore recommended for approval subject to conditions.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it relates to the change of use of an existing building and is unlikely to have an adverse effect on the character or appearance of the area, the amenities of the occupiers of neighbouring properties or highway safety.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, NE5, CF8 and T5

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

- 2 This permission relates to the application as revised by amended plan No. SCP/08166/F/01 Rev. E received by the Local Planning Authority on 31st March 2009.
- 3 The premises shall be used for a Childrens Care Home and for no other purpose, including any other purpose within Class C2 of the Town & Country Planning Use Classes (Amendment) Order 2005, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 4 The vehicular access shall be a minimum of 5 metres wide for at least the first 5 metres behind the highway boundary and have minimum 4 metres control radii at its junction with the adopted road carriageway in accordance with approved plan No. SCP/08166/F/01 received by the Local Planning Authority on 31st March 2009. The access drive once provided shall be so maintained at all times thereafter.
- 5 The vehicular access gates shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as to open inwards only in accordance with approved plan No. SCP/08166/F/01 received by the Local Planning Authority on 31st March 2009.
- 6 Notwithstanding the submitted details, before first use of the development hereby permitted the access drive and any turning space shall be surfaced with hard bound porous material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times thereafter.
- 7 Before first use of the development hereby permitted, visibility splays of 2.4 metres by 45 metres shall be provided on both sides of the junction of the access with Leicester Lane in accordance with the approved plan No. SCP/08166/F/01 received by the Local Planning Authority on 31st March 2009. Once provided the visibility splays shall be so maintained at all times thereafter and nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.
- 8 The existing car parking and turning areas within the curtilage of the site shall not be obstructed and shall permanently remain available for such use at all times.
- 9 The existing vehicular access shall be permanently closed within one week of the new access being brought into use and the existing vehicular crossing reinstated to highway verge to the satisfaction of the Local Planning Authority in consultation with the Highway Authority.

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 use remains compatible with the surrounding area, to safeguard amenities of neighbouring properties and in the interests of highway safety to accord with policies BE1, NE5, CF8 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 4 To ensure that vehicles entering and leaving the site may pass each other clear of the highway and in the interests of highway safety to accord with policies BE1, NE5 and T5 of the adopted Hinckley and 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 policies BE1, NE5 and T5 of the adopted Hinckley and Bosworth Local Plan.

- 6 To reduce the possibility of deleterious material (loose stones etc.) being deposited in the highway in the interests of highway safety to accord with policies BE1, NE5 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 7 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 policies BE1, NE5 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 8 To ensure that adequate off-street parking and turning provision is available to reduce the possibilities of the development leading to on-street parking and to ensure that vehicles may enter and leave the site in a forward direction in the interests of highway safety to accord with policies BE1, NE5, CF8 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 9 To reduce the number of vehicular accesses to the site and consequently to reduce the number of potential conflict points in the interests of highway safety to accord with policies BE1, NE5 and T5 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The applicant is advised that the '5 metres' distance referred to in conditions 4, 5 and 6 above, relate to the highway boundary and not to the edge of the carriageway.
- 6 List of plans used in the determination of his application:- 7468 Site Location Plan; SCP/08166/F/01 Rev. E; 7468 Ground Floor Plan; 7468 First Floor Plan; Buxted 5 Bar Field Gate.

Contact Officer:- Richard Wright Ext 5894

Item: 08

Reference: 09/00178/FUL

Applicant: Mr Tony Abbott

Location: Breach Farm Breach Lane Earl Shilton Leicester Leicestershire Le9 7FB

Proposal: ERECTION OF AN AGRICULTURAL DWELLING

Introduction:-

This is a full application for the erection of a permanent agricultural dwelling at Breach Farm, Breach Lane, Earl Shilton, an agricultural holding covering an area of approximately 36 hectares in the countryside to the south of Earl Shilton. The agricultural holding involves the rearing of 90 head of beef cattle together with 10 DIY liveries. The proposed dwelling is a detached bungalow with lounge, kitchen/diner, utility/laundry, three bedrooms, bathroom and shower room together with double garage. The external floor area would measure approximately 192 square metres with an additional 36 square metres occupied by the double garage. The dwelling would be located to the south of the Earl Shilton Bypass and north of two existing agricultural buildings and another agricultural/stables building currently under construction essentially forming a new farm complex. The land falls gently from north to south and there are open fields to the east and west. An amended plan has been received that has reduced the extent of the residential curtilage and has relocated the access road. Access would be from the Earl Shilton Bypass, via a section of Breach Lane and a newly constructed public bridleway, then onto a new access approved as part of a previous planning permission for the agricultural storage/stables building (reference 08/00160/FUL).

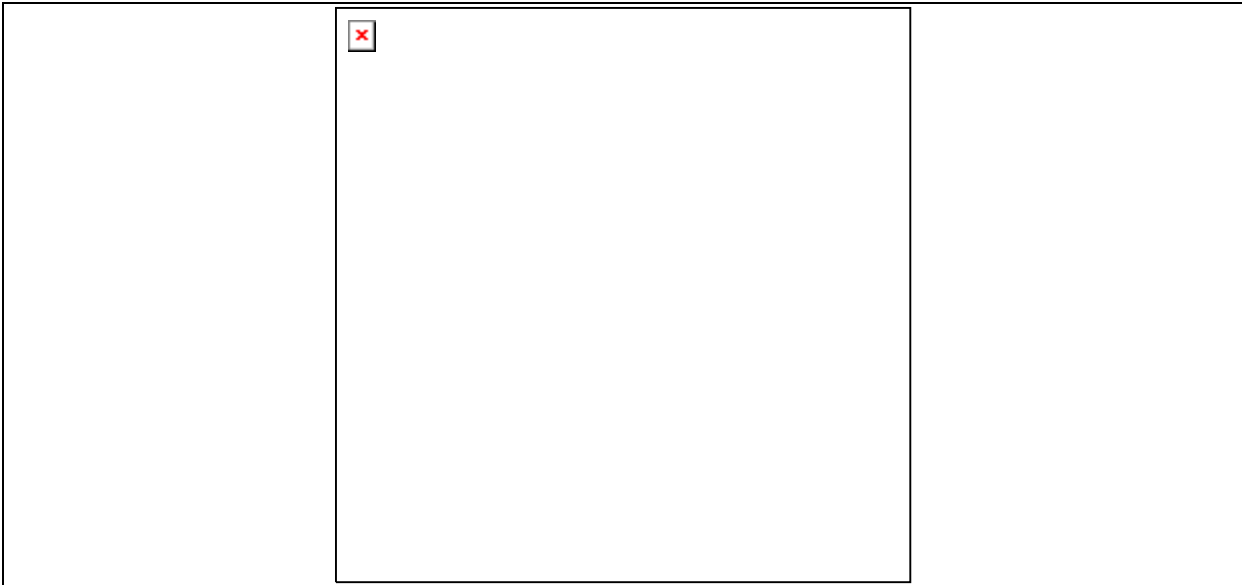
A Design and Access Statement has been submitted to support the application. This states that the need for the proposed dwelling has arisen as the existing farmhouse on Breach Lane is now detached from the relocated agricultural complex and associated farmland by the Bypass. Direct vehicular access to the complex is no longer available from the existing farmhouse and entails a 1.27 mile road journey, with pedestrian access only available across the busy Bypass. In hindsight, it may have been possible to address this issue when negotiations regarding the route and design of the Bypass were taking place, however, the opportunity to do so has now been lost. It is intended that the existing farmhouse on Breach Lane would remain occupied by the applicant's mother (retired) and the proposed dwelling would be occupied by the applicant who would continue to operate the farm. The proposed dwelling is intended to have an agriculture tie as its sole purpose is to provide essential accommodation for the applicant in the full-time operation of this well established, financially viable agricultural holding, providing the necessary on-hand labour commensurate with the rearing of livestock and to maintain animal welfare and security at all times. This need can no longer be fulfilled by the now remote existing farmhouse from which surveillance is now impossible and therefore there is a clearly established functional need for the dwelling on the site. The layout is designed to provide maximum surveillance of the site whilst minimising the impact of the dwelling on the countryside by locating the dwelling in close proximity to and against a background of existing agricultural buildings to form and appear as a farm complex. The dwelling is oriented to minimise its width when viewed from the most prominent public area, i.e. the bypass and adjacent bridleway. Its single storey, traditional design with hipped roof and of modest proportions also helps to minimise its impact on the landscape.

A Great Crested Newt (GCN) Assessment carried out in December 2008 has also been submitted in respect of the site. The report concludes that GCNs were considered likely to be present on site at certain times of the year (subject to ground conditions) due to their known presence within 500m of the site and an apparently suitable pond within 275m of the site. The report recommends further surveying for both GCNs and ground nesting birds prior to

commencement of works, a simple mitigation strategy to compensate for any potential loss of habitat and that a watching brief be maintained by a competent person during the construction phase of the development.

History:-

08/00160/FUL	Erection of Agricultural Storage and Equestrian Building, Manege, Associated Hardstanding and Creation of Access.	Approved	13.05.08
07/01087/FUL	Erection of Agricultural Storage and Equestrian Building Manege, Associated Hardstanding and Creation of Access.	Withdrawn	06.12.07
07/00382/UNUSE	Enforcement Enquiry	Closed	21.09.07
07/00104/FUL	Erection of Stabling, Manege and Associated	Withdrawn	24.07.07
06/01398/FUL	Erection of Agricultural Building	Withdrawn	26.01.07
05/00085/BOC	Enforcement Enquiry	Closed	20.05.08
04/00475/FUL	Change of Use of Agricultural Land to Garden	Approved	24.06.04
04/00445/FUL	Erection of Agricultural Livestock Building	Approved	19.07.04
04/00061/BOC	Enforcement Enquiry	Closed	27.05.04
03/00663/FUL	Erection of Agricultural Storage Building	Approved	19.08.03
77/01014/4	Conversion of Old Farm House into Stables	Withdrawn	25.10.77
75/00100/4	Erection of Farmhouse and Garage	Approved	25.03.75
74/00501/4	Erection of Farmhouse and Garage	Refused	23.12.74



Consultations:-

No objection has been received from Head of Community Services (Pollution).

No objection subject to conditions has been received from:-

Director of Highways, Transportation and Waste Management (Highways)
Director of Community Services (Ecology)
Environment Agency
Head of Community Services (Land Drainage).

Borough Council's Agricultural Appraisal Consultant has conducted a formal desktop appraisal of the proposal in relation to Annex A of Planning Policy Statement 7, as guidance in determining the application. He advises that the proposal fails to pass either the functional or financial tests of Annex A to Planning Policy Statement 7. There is insufficient agricultural support for the proposed new dwelling as the holding is both part-time and financially unviable, and is unable to sustain the cost of the proposed new dwelling. He further advises, however, that if the dwelling is to be classed as a relocation of the existing dwelling, including the relocation of the farm and equestrian buildings which have already been granted consent, and if the Local Planning Authority are prepared to accept the application in general planning terms and that the monies from the sale of the residential development land should be taken into account, the proposed site does comply with paragraph 11 of Annex A to PPS7 being well related to the existing farm buildings. More details of the response are included in the appraisal section of this report.

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

Earl Shilton Town Council
Site notice
Neighbours.

Policy:-

Central Government Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' sets out the overarching planning policies on the delivery of sustainable development through the planning system. Paragraph 5 states that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by protecting and enhancing the natural environment and the quality and the character of the countryside. Paragraph 17 states that planning policies should seek to protect and enhance the quality, character and amenity value of the countryside. Paragraph 19 states that planning decisions should be based on the potential impacts on the environment of development proposals. Significant adverse impacts on the environment should be avoided and alternative options which might reduce or eliminate those impacts pursued.

Planning Policy Statement 3 (PPS3): Housing sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to ensure that housing developments are in suitable locations, which offer a good range of community facilities, with good access to jobs, key services and infrastructure. Paragraph 16 outlines matters to consider when assessing design quality and includes the extent to which the proposed development is easily accessible and well-connected to public transport and community facilities and services.

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' sets out the Government's planning policies for rural areas. Paragraph 1 advises that new building

development in the open countryside outside existing settlements should be strictly controlled in order to protect the countryside for its intrinsic beauty. Paragraph 10 makes it clear that isolated new dwellings in the countryside require special justification for planning permission to be granted. Further advice is provided in Annex A to PPS7 which states that one of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural and certain other full time workers to live at, or in the immediate vicinity of, their place of work. In assessing planning applications for new dwellings in the countryside Annex A requires a functional and financial test to be applied in order to give consideration to: the nature of the holding and the functional need/necessity for the person to live on site, having regard to the security and efficient operation of the holding, (e.g. if a worker is needed day and night to provide essential care at short notice and deal quickly with emergencies that could otherwise cause serious loss); the financial viability of the holding to sustain the worker in full time employment; the availability of suitable existing accommodation nearby. In addition, the agricultural dwelling should be of a size commensurate with the established functional requirement and be well related to existing farm buildings. Dwellings that are unusually large in relation to the needs of the unit or expensive to construct in terms of the income it can sustain in the long term should not be permitted. It is the requirements of the enterprise not those of the owner or occupier that is relevant in determining the size of the dwelling that is appropriate.

Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation states that planning decisions should aim to maintain and enhance biodiversity conservation interests. In taking decisions, local planning authorities should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; and to biodiversity interests within the wider environment (para.1(ii)). The aim of planning decisions should be to prevent harm to biodiversity conservation interests (para.1 (vi)). Sites of local biodiversity interest have a fundamental role to play in meeting overall national biodiversity targets.

Local Plan Policy

Policy BE1 seeks 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; has regard to the safety and security of individuals and property; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; is not adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; does not adversely affect the occupiers of neighbouring properties and incorporates landscaping to a high standard.

Policy RES12 states that in assessing planning applications for dwellings required to accommodate a person employed in agriculture, consideration will be given to: the nature of the holding and the necessity for the person to live on site, having regard to the security and efficient operation of the holding; the viability of the holding to sustain the worker in full time employment; the availability of suitable alternative accommodation in the local housing market. Policy T5 refers to the application of appropriate standards for highway design and parking targets for new development.

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 important to the local economy and cannot be provided within or adjacent to an existing settlement 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. Policy NE12 states that proposals for development should make provision for further landscaping where appropriate. Policy NE14 requires satisfactory arrangements to be made for the disposal of foul sewage, trade effluent and surface water.

Appraisal:-

The main considerations with regards to this application are the principle of development in this countryside location and its impact upon the character and appearance of the surrounding landscape together with access.

Principle of Development and Impact on the Character and Appearance of the Area

The existing farmhouse was granted planning permission in 1975 as a replacement for the previous farmhouse which was in poor structural condition. Notwithstanding claims to the contrary in the Design and Access Statement, the dwelling is subject to the standard agricultural occupation condition. The proposed dwelling would therefore be a second dwelling associated with the holding. The holding involves the rearing of 90 head of beef cattle on 36 hectares of grazing land with an additional 4 hectares of rented land. New stables providing 10 DIY liveryes are also under construction. The agent stresses that full time attendance is required for the proper operation of the enterprise due to the nature of the activities and for security purposes in respect of the buildings and livestock and livestock welfare. The agent has provided information regarding livestock levels etc. to enable an assessment to be made of the operation and financial viability of the holding in sustaining an agricultural workers dwelling. The Borough Council's Agricultural Appraisal Consultant has undertaken a desktop appraisal of the information provided. He advises that if the enterprise/holding is assessed using the guidance set out in Annex A to PPS7 for new agricultural dwellings there is clearly no agricultural support for the proposed new dwelling as the holding is both part-time and financially unviable, and is unable to sustain the cost of the proposed new dwelling. In addition, the size of the dwelling, which is in excess of 185 square metres, would not be commensurate with the established functional requirement of the enterprise and would therefore not comply with paragraph 9 of Annex A to PPS7. The functional need of the enterprise could be fulfilled by the existing dwelling which has an agricultural tie, or by suitable alternative dwellings in Earl Shilton that would comply with paragraph 3(iv) of Annex A to PPS7. In terms of security of the site, paragraph 6 of Annex A to PPS7 states that whilst the protection of livestock from theft or injury by intruders may contribute on animal welfare grounds to the need for a new agricultural dwelling it will not by itself be sufficient to justify one. The proposal does comply with paragraph 11 of Annex A of PPS7 in that it is well related to existing farm buildings, however, the dwelling would not be considered to be a relocation as the existing dwelling would remain available for operation of the agricultural holding.

As such, overall the proposed dwelling is contrary to central government guidance and adopted Local Plan policies that seek to protect the character and appearance of the countryside from residential development that does not have any special justification.

Other Issues

The proposed dwelling would not have an adverse impact on highway safety or generate traffic to adversely affect the rural character of the area and the Highway Authority has no objection to the proposal subject to satisfactory construction of the proposed access at the applicant's expense. There is adequate private amenity space and parking provision within the site.

The Environment Agency and Director of Community Services (Ecology) do not object but if planning permission were granted, they would require a condition to safeguard any protected species and a watching brief during development.

Conclusion

Both central government guidance and adopted Local Plan policies seek to protect the countryside for its own sake. An unsatisfactory agricultural appraisal has been received and

the proposal has failed to pass the functional and financial tests of Annex A of PPS7. There is no special justification for the proposed dwelling in this countryside location and the application is therefore recommended for refusal.

RECOMMENDATION :- REFUSE, for the following reasons :-

- 1 In the opinion of the Local Planning Authority, from the information provided, the proposed agricultural dwelling does not pass the functional or financial tests set out in Paragraphs 4, 8 and 9 of Annex A to Planning Policy Statement 7. The proposal therefore represents an unwarranted and unacceptable intrusion of residential development in an unsustainable location in the countryside to the detriment of the character and appearance of the landscape and visual amenity. The proposal is therefore contrary to policies BE1, RES12 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance in Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3: 'Housing' and Planning Policy Statement 7 'Sustainable Development in Rural Areas'.
- 2 The approval of this proposal would set a precedent for the consideration of further applications of a similar nature, to which the Local Planning Authority would also object, but which would consequently be difficult to resist and could lead to a proliferation of new residential development in the countryside. The proposal is contrary to Policies BE1, RES12 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance in Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3 'Housing' and Planning Policy Statement 7 'Sustainable Development in Rural Areas'.

Notes to Applicant:-

- 1 List of Plans used in the determination of this application:- Site Location Plan 3770/01 Rev B; Block Plan 3770/03 Rev A; general Arrangement 3770/02; LCC drawing No. LCC/09/00178/FUL/01.

Contact Officer:- Richard Wright Ext 5894

Item: 09

Reference: 09/00237/FUL

Applicant: Mr G Wragg

Location: Common Farm Barton Road Carlton Nuneaton Leicestershire

Proposal: CONVERSION OF BARNs INTO 2NO DWELLINGS.

Introduction:-

This is a resubmission of an application which provides additional information regarding the set of circumstances behind the condition of the walls in connection with Barn C and the reasons leading to their demolition as well as the possible economic implications of the Borough Council's opposition to the scheme.

Two previous applications for the same development have been recently considered and refused by the Planning Committee, in November 2008 and March 2009, for the conversion of barns into two residential units at Common Farm, Barton Road, Carlton. Appeals have been lodged against these decisions to be heard at a Public Enquiry later this year. The proposed floor plans for the two barns remain the same as a scheme approved in 2005 (05/00197/FUL).

This is an updated report although much of the content is similar to the previous reports submitted to committee. Additional support for the proposal relates to an argument that overwhelming material considerations should override the technical infringement of planning policy.

Common Farm is located off Barton Road, between Market Bosworth and Carlton and is accessed by an existing track. The barns form part of the group of outbuildings to a former farm complex which is located within the countryside. Other barns within the complex have been renovated and granted planning permission for change of use for industrial purposes.

The original application to convert the barns to two residential units, and a further barn into an industrial unit, has been commenced (05/ 00197/FUL). It was supported by a structural survey dated August 2005, which stated that the barns were generally in a sound structural condition bearing in mind the expected deterioration from exposure to the weather and their agricultural usage. Their conversion/modernisation would not need significant structural alterations nor enhancements assuming suitable consideration was given to the design and specification. That permission allowed for some minor work on one gable end but since work commenced on site to implement the permission, it was found by the applicant that the condition of the structure of the high barn had deteriorated significantly and the majority of that part of the structure was therefore demolished.

The ridge detail to be retained on part of one of the barns has been omitted in this latest application. The application also proposes a change to the access arrangements previously approved for the barns by utilising the existing access rather than providing a new access road within the field to the north of the site. The proposed conversion to two residential properties provides barn one with accommodation on ground floor only and the other over two floors, utilising the high barn, which now requires rebuilding. Barn B has three bedrooms, one with ensuite, kitchen, dining room, sitting room, utility and bathroom. Barn C has three bedrooms, two with ensuites, kitchen, dining room, sitting room, utility and bathroom.

The design and access statement submitted with this application states that it seeks to demonstrate that the amount of proposed rebuilding is not substantial. The statement goes on to say that the amount of rebuilding is 35% of the total wall area and refers to another site where more extensive rebuilding was permitted. It states that the walls of the high barn fell down during works to a nearby structure and that this was accidental and due to the fragile state the walls were in. The design principles remain the same as in 2005 in terms of the elevations and plan layout and confirms that it is intended to re-use the existing bricks and the stone plinth. The existing access is to be improved in line with conditions previously imposed in connection with the rebuilding of the dwelling on the site.

A supporting statement by solicitors acting for the applicant states that Barn C is a building at the core of the complex of buildings and that as a consequence of the decay to the fabric, the integrity of the two flank walls was irretrievably compromised resulting in elements of those walls collapsing during site works. The statement refers to the duty of the Council to consider both planning policy and material planning considerations. It refers to the principle of residential conversion of the barns being established in 2005 and that the scheme is acceptable in terms of design, elevations, materials and layout as it is unchanged from the 2005 approved scheme and would not lead to a precedent being set.

An updated structural survey by consultants acting on behalf of the applicant has also been submitted which confirms that the high part of the barn C structure was unsound in that the flank walls had rotated outwards which had given rise to separation cracks between the flank walls and both gables. The movement evident was so severe that the flank walls could no longer be salvaged. Furthermore, any attempt to execute rebuilding or repair would result in unacceptable safety hazards to the workforce. As previously reported, the Borough Council's Building Control Officer comments that at the time of his initial site inspection, it was hard to

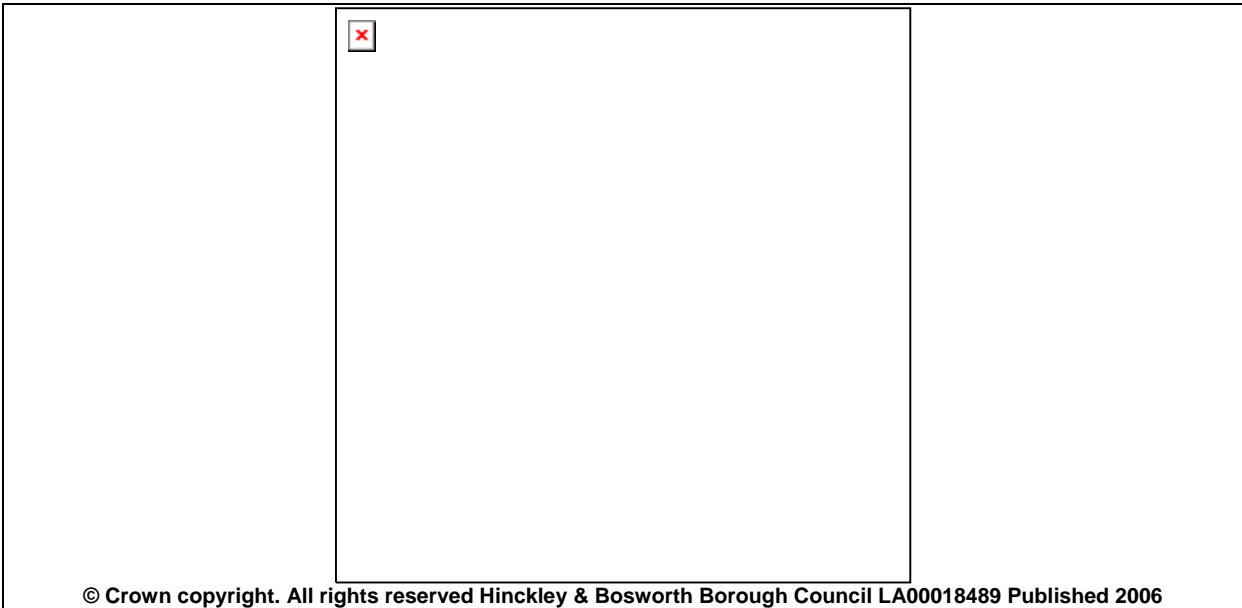
ascertain the full extent of the structural condition of this building, due to its continued use for storage of machines and other farm equipment etc. The various cracks and bulges around the outside the building were visible however, as were the ties through the building trying to restrain the bulges, and at the time it seemed that, with remedial works, the conversion may have been possible, but the structural report appeared to be overly positive as to the full condition of the building. The major factor to the worsening of the movement of the building was the bottom 1.5m of the wall being constructed of stone, which appeared to be acting as a pivot to the brickwork above and not giving it sufficient lateral support or resistance to overturning that had started to occur.

A contamination report has been submitted with the application which concludes that the site is suitable for the proposed development subject to identified remedial measures being undertaken.

A statement from one of the local contractors involved with the site states that if planning permission is not successful for the final part of the development on site, it would have a serious impact on the business resulting in redundancies and/or dismantling of parts of the business.

History:-

05/00197/FUL	Conversion of barns to two dwellings and one barn to industrial unit	Approved	22.11.05
07/00324/FUL	Extensions and Alterations to Dwelling	Approved	3.05.07
06/01203/FUL	Demolition of Existing Dwelling and Erection of a New Dwelling and Detached Garage	Withdrawn	15.12.06
08/00414/FUL	Demolition of remaining external walls from previous approval 07/00324/FUL, erection of new dwelling and conversion of outbuilding to garage	Approved	11.06.08
08/00978/FUL	Conversion of barns to 2 No dwellings	Refused	24.11.08
09/00029/FUL	Conversion of barns to 2 No dwellings	Refused	11.03.09



Consultations:-

No objections subject to conditions received from:-

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

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

Director of Highways Transportation and Waste Management (Highways)
Severn Trent Limited
Market Bosworth Parish Council
Carlton Parish Council
Market Bosworth Society
Site Notice
Neighbours.

Policy:-

Central Government Guidance

Planning Policy Statement 7 Sustainable Development in Rural Areas encourages the re-use of appropriately located and suitably constructed existing buildings within the countryside where this meets sustainable development objectives. In assessing such development consideration should be given to the potential impact on the countryside, landscape and wildlife; accessibility to settlements; the suitability of different types of building and of different scales for re-use; the need or desire to preserve buildings of historic interest or that contribute to local character.

Regional Policy

Regional Spatial Strategy for the East Midlands (RSS 8) in Policy 6 considers the priorities for development in rural areas. It states that development in such areas should maintain the distinctive character of rural communities. Policy 26 seeks to protect and enhance the Region's natural heritage and states that damage to natural assets or their settings should be avoided wherever and as far as possible, recognising that such assets are usually irreplaceable. Unavoidable damage must be minimised and clearly justified by a need for development in that location which outweighs the damage that would result.

Local Plan

The site lies outside the settlement boundaries for Market Bosworth and Carlton as identified in the adopted Hinckley and Bosworth Local Plan.

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.

BE20 stipulates a number of criteria to which proposals in the countryside should adhere. The proposed use should not adversely impact on the appearance and character of the landscape or building for conversion. The building should be in a structurally sound condition and capable of conversion without significant adaptation and rebuilding. Future occupiers should not be affected by existing activities nor should the proposal impact on a protected wildlife habitat. The proposal should not affect Highway Safety and should comply with Highway criteria.

Policy NE5 states that the countryside will be protected for its own sake. Planning permission will be granted provided that the development is important to the local economy and cannot

be provided within or adjacent to an existing settlement and where the proposal does not have an adverse effect on the character and appearance of the landscape; is in keeping with the scale and character of existing buildings and the general surroundings, is effectively screened by landscaping and will not generate traffic likely to exceed the capacity of the highway network or impair road safety.

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.

The Council's Supplementary Planning Guidance (SPG) on the Conversion of Rural Buildings states that the re-use and adaptation of existing rural buildings has an important role to play in meeting the needs of rural areas particularly for commercial and industrial purposes: reducing the need for new buildings; avoiding vacant buildings becoming prone to vandalism and dereliction; and providing employment. Where demolition and rebuilding of walls would be required to secure the structural integrity of the building, planning permission will not be forthcoming, as the result would be a new building in the countryside which in itself is contrary to policy. Generally, significant extensions to a barn as part of an overall conversion will be unacceptable. Garages should be provided within the initial scheme as the Council will strongly resist the provision of garages after the conversion has taken place. The sustainability of a development proposal will be a key factor in its determination. The guidance gives further detailed advice regarding external and internal building design features, the setting of the buildings, habitat preservation and creation, and landscaping.

Appraisal:-

As with the previous applications, the main considerations with regard to this application are the principle of the development, impact on the countryside and access arrangements.

Principle and Supporting Statement

The supporting statement submitted by the applicant's solicitor states that as a consequence of decay to the fabric of the barn the structural integrity of the two flank walls was irretrievably compromised resulting in elements of those walls collapsing during site works. This is through no fault of the applicant. The principle and design were established in 2005 and the structural survey information submitted at the time was considered acceptable by the Council. This application is therefore only in effect in relation to the partial rebuilding of Barn C that has collapsed and 'no planning harm' would be caused by its approval. The statement says that a precedent would not be set by approving a scheme indistinguishable in terms of design and appearance to the one previously approved and that the planning policy framework should be considered balanced with material considerations of the scheme on its own merits and not in a vacuum. The statement says that the case officer 'had no issues with the walls being taken down as part of a new application. However the case officer does not recall this aspect of the conversation.

Furthermore, the statement refers to the previous committee report which confirmed that site visits by the Council's Building Control Officer had noted that this part of the building was in a poor state of repair. The walls collapsed prior to the previous application being considered. The statement challenges the refusal reason in that it refers to 'the barn needs considerable rebuilding and as such will result in a building which is tantamount to a new dwelling in the countryside' on the basis of 35% of the original brickwork being lost. The applicant has not tried to circumvent the planning system by concealing the events on site and has engaged with the Council by pre-application advice.

When considering the previous application it was estimated that notwithstanding the applicants assertion of only 35% of the brickwork being rebuilt, the proposal actually involved almost two thirds of the floor space of barn C being new build. The application is therefore contrary to the aims of Policies BE20 and NE5.

As previously stated, the Inspector's appeal decision in relation to Watling Street Farm, Smockington, dismissed in August 2007 which related to the rebuilding of barns for residential occupation, said that 'policies seek to control strictly the amount of new building in the countryside...' I give only very limited weight to the fact that it would look like either, a) a previous building now largely removed, or b), as it would have looked had a planning permission been properly implemented. Current national and local policies are cautious about allowing 'new residential uses' to be established in the open countryside, outside defined settlements (hence the preference for commercial, etc., re-use of existing buildings).'

Members will recall that the application in relation to the rebuilding of the farmhouse on the Common Farm site (08/00414/FUL) was supported because Building Control Officers were able to verify the structural report in relation to the stability of the building, and parts of the fabric of the building were retained in situ to allow independent inspection. Members also viewed this development on site.

Impact on the Countryside

The site is within an area of countryside where policy seeks to protect the countryside for its own sake. The site is not very prominent and the barns are screened from the main road by a mature hedge. The policy allows for change of use, reuse and extension of existing buildings providing the development would not have an adverse effect on the appearance or character of the landscape and is in keeping with the scale and character of existing buildings and the general surroundings. Furthermore, Supplementary Planning Guidance pays particular regard to the setting of converted buildings, requiring the appearance to retain their rural character and for the domestic appearance to be concealed from general view. It is considered that the proposal does not have an adverse effect on the countryside subject to the domestic elements being controlled by the removal of 'permitted development' rights in accordance with the previously approved application.

Access Arrangements

This application proposes utilisation of the existing access rather than providing a new roadway within the field to the north of the site. In this respect, the proposal will have a lesser impact on this countryside location than the previously approved scheme. The Director of Highways Transportation and Waste Management (Highways) has no objections to this proposal.

Conclusion

In summary, the conversion of existing redundant agricultural buildings in the countryside to residential use can be acceptable in principle subject to the applicant demonstrating that the buildings are capable of conversion in structural terms. Whilst the proposal is considered to have no greater impact on the openness and appearance of the countryside than the previous permission, due to the circumstances met through the deterioration of the building and the carrying out of works, barn C now requires 35% of its brickwork rebuilding or almost two thirds of its floorspace in order for the proposed scheme to be implemented. This is considered to be a significant amount of rebuilding which does not meet adopted policies and as such will result in a building which is tantamount to a new dwelling in the countryside. Therefore there is no change to the consideration of the previous applications, and the further material considerations put forward by the applicant and his advisors are not considered to carry sufficient weight and allow for the setting aside of the policy presumption against the proposal. The application is therefore recommended for refusal.

RECOMMENDATION:- That 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 refuse the application as detailed below.

- 1 The proposed development represents a substantial amount of re-building to Barn 2 that would be tantamount to the building of a new dwelling in the countryside. The proposed development is therefore contrary to government guidance in Planning Policy Statement 7 (Sustainable Development in Rural Areas), the Regional Spatial Strategy for the East Midlands (RSS8), Policies BE1, BE20 and NE5 of the adopted Hinckley and Bosworth Local Plan and the Borough Council's adopted Supplementary Planning Guidance on the Conversion of Rural Buildings.
- 2 The approval of this proposal would set a precedent for the consideration of further applications of a similar nature, to which the Local Planning Authority would also object but which would consequently be difficult to resist, it would therefore be contrary to the aims of policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Contact Officer:- Louise Forman Ext 5682

Item: 10

Reference: 09/00246/TEMP

Applicant: Mr C Klenk

Location: Stanmaur Farm Breach Lane Earl Shilton Leicestershire LE9 7FB

Proposal: TEMPORARY OCCUPATIONAL DWELLING AT BOARDING KENNELS

Introduction:-

The proposal is for the siting of a temporary mobile home at Stanmaur Farm in association with the boarding kennels and equestrian enterprise at the farm to the south of the new Earl Shilton Bypass where it severs Breach Lane, Earl Shilton. The site is surrounded on three sides by agricultural land to the west, south and east with the Earl Shilton Bypass running loosely south-west to north-east to the north of the site approximately 180m in distance. The land falls gently from north to south.

The mobile home will accommodate 2 bedrooms, a large lounge, separate dining room, kitchen and bathroom. The overall size is 11.78m x 5.80m, with a maximum ridge height of 4.23. The structure will be sited to the front of existing development, approximately 50m from the highway.

The holding extends to a total of approximately 3.2 hectares (8 acres) of owner-occupied land, and 4.8 ha (12 acres) of grassland, which is rented. The site currently comprises three Steel portal framed barns (one with a lean-to) used for stabling, kennels and to store machinery, tack and animal feed. A large ménage is situated to the rear of the stable block and a fishing lake is located adjacent to the southern perimeter of the site.

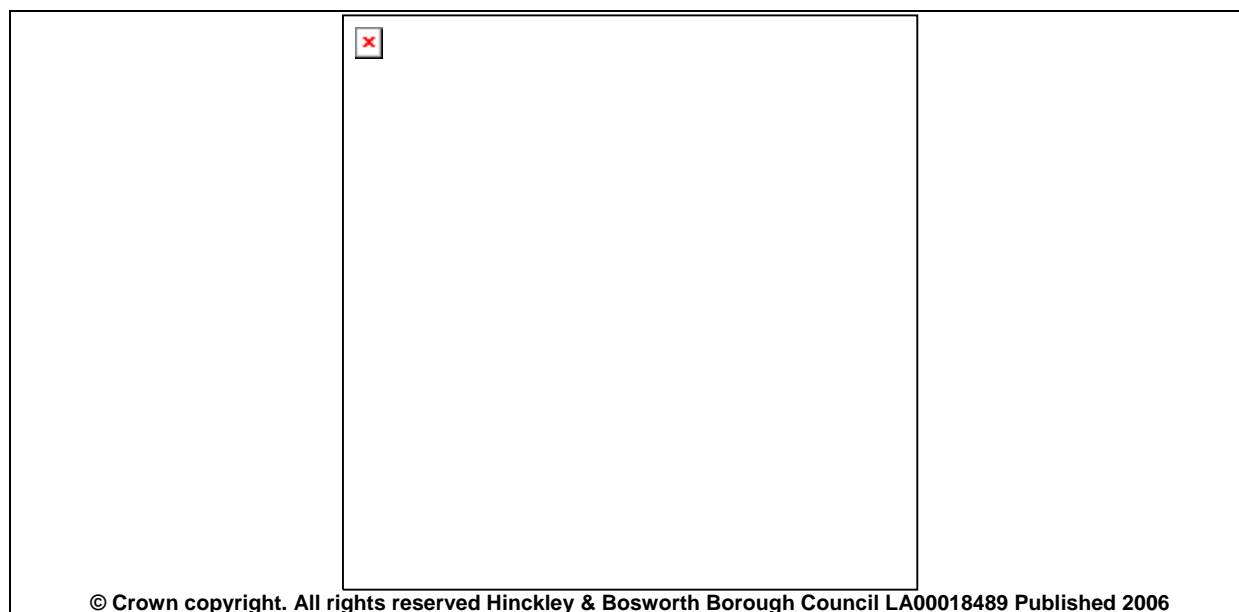
The Design and Access Statement submitted with the application states that on-site accommodation for a worker is essential to the economic sustainability of the business. An on-site presence at most times will help to significantly reduce losses of animals through general injuries and theft, which could occur at night time. An on site presence is essential to enable the applicant to successfully apply for a licence to operate the boarding kennels as well as to look after the animals in their care.

An appraisal of the need for a temporary dwelling to service the equestrian activities and boarding kennels at the property, including a business plan has also been submitted. This concludes that there is an essential functional requirement for the provision of temporary accommodation on the holding and if the business continues to develop as planned in the

attached business plan, the financial test for an eventual permanent dwelling will be met, therefore the business is planned on a sound financial basis.

History:-

08/00542/CONDIT	Continued use of land and buildings without compliance with condition 4 of planning permission 06/01048/FUL condition 8 of planning permission 99/00920/FUL and condition 3 of planning permission 98/00544/FUL	Approved	25.07.08
06/01048/FUL	Erection of Implement store and stable block	Approved	13.11.06
03/01102/FUL	Erection of stable block, boarding kennels poly tunnels and disabled toilet extension to stable, to provide store, excavation of pond and temporary siting of mobile home (resubmission)	Refused	03.12.03
03/01081/CONDIT	Variation of condition 3 of application 98/00544/FUL and condition 8 of application 99/00920/FUL to remove the limitations on personal use (re-submitted)	Refused	03.12.03
02/01322/CONDIT	Variation of planning condition 3 of application 98/00544/FUL and condition 8 of 99/00920/FUL resubmission	Withdrawn	06.01.03
02/01095/FUL	Erection of stable block boarding kennels, poly tunnel and disabled toilet, extension to stable to provide store and excavation of pond and temporary siting of mobile home.	Withdrawn	06.01.03
00/00672/FUL	Siting of residential mobile home	Refused	11.10.00
99/00920/FUL	Stationing of touring caravan, erection of two field shelters, relocation of ménage and installation of CCTV and 6 floodlights	Approved	16.12.99
98/00544/FUL	Erection of stable building, barn, and construction of access drive ménage and conservation pond	Approved	12.08.98

**Consultations:-**

No objection has been received from Head of Community Services (Pollution).

No objection subject to conditions has been received from Head of Community Services (Land Drainage).

One neighbour objection has been received, stating that the proposed property is out of character with the area and will cause additional traffic.

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

Borough Council's Agricultural Appraisal Consultant
Director of Highways, Transportation and Waste Management (Highways)
Director of Community Services (Ecology)
Environment Agency
Earl Shilton Town Council
Site notice.

Policy:-Central Government Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' sets out the overarching planning policies on the delivery of sustainable development through the planning system. Paragraph 5 states that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by protecting and enhancing the natural environment and the quality and character of the countryside. Paragraph 17 states that planning policies should seek to protect and enhance the quality, character and amenity value of the countryside. Paragraph 19 states that planning decisions should be based on the potential impacts on the environment of development proposals. Significant adverse impacts on the environment should be avoided and alternative options which might reduce or eliminate those impacts pursued.

Planning Policy Statement 3 (PPS3): Housing sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to ensure that housing developments are in suitable locations, which offer a good range of community facilities, with good access to jobs, key services and infrastructure. Paragraph 16 outlines matters to consider when assessing design quality and includes the extent to which the proposed development is easily accessible and well-connected to public transport and community facilities and services.

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' sets out the Government's planning policies for rural areas. Paragraph 1 advises that new building development in the open countryside outside existing settlements should be strictly controlled in order to protect the countryside for its intrinsic beauty. Paragraph 10 makes it clear that isolated new dwellings in the countryside require special justification for planning permission to be granted. Further advice is provided in Annex A to PPS7 which states that one of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural and certain other full time workers to live at, or in the immediate vicinity of, their place of work. In assessing planning applications for new dwellings in the countryside Annex A requires a functional and financial test to be applied in order to give consideration to: the nature of the holding and the functional need/necessity for the person to live on site, having regard to the security and efficient operation of the holding, (e.g. if a worker is needed day and night to provide essential care at short notice and deal quickly with emergencies that could otherwise cause serious loss); the financial viability of the holding to sustain the worker in full time employment; the availability of suitable existing accommodation nearby. It is the requirements of the enterprise not those of the owner or occupier of relevance in determining the size of the dwelling that is appropriate.

Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation states that planning decisions should aim to maintain and enhance biodiversity conservation interests. In taking decisions, local planning authorities should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; and to biodiversity interests within the wider environment (para.1(ii)). The aim of planning decisions should be to prevent harm to biodiversity conservation interests (para.1 (vi)). Sites of local biodiversity interest have a fundamental role to play in meeting overall national biodiversity targets.

Local Plan Policy

The site is defined within the countryside in the adopted Hinckley and Bosworth Local Plan.

Policy BE1 seeks 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; has regard to the safety and security of individuals and property; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; is not adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; does not adversely affect the occupiers of neighbouring properties and incorporates landscaping to a high standard.

Policy RES12 states that in assessing planning applications for dwellings required to accommodate a person employed in agriculture, consideration will be given to: the nature of the holding and the necessity for the person to live on site, having regard to the security and efficient operation of the holding; the viability of the holding to sustain the worker in full time employment; the availability of suitable alternative accommodation in the local housing market.

Policy T5 refers to the application of appropriate standards for highway design and parking targets for new development.

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 important to the local economy and cannot be provided within or adjacent to an existing settlement 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. Policy NE12 states that proposals for development should make provision for further landscaping where appropriate. Policy NE14 requires satisfactory arrangements to be made for the disposal of foul sewage, trade effluent and surface water.

Appraisal:-

The main considerations in respect of this application are: the principle of the development; whether it is essential for the proper functioning of the enterprise for one or more full time workers to be available at most times of the day and night (the functional test); whether the enterprise is planned on a sound financial basis; whether suitable alternative accommodation exists nearby; visual impact of the existing mobile home.

Principle

One of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time workers to live at, or in the immediate vicinity of, their place of work. Paragraph 15 of Annex A relates to "Occupational Dwellings" and states that there may be instances where special justification exists for new isolated dwellings associated with other rural-based enterprises. In these cases, the enterprise itself, including any development necessary for the operation of the enterprise, must be acceptable in planning terms and permitted in that rural location, regardless of the consideration of any proposed associated dwelling. In relation to equine uses, paragraph 32 of PPS 7 states that horse riding and other equestrian activities are popular forms of recreation that can fit in well with farming activities and help to diversify rural economies. In some parts of the country, horse training and breeding businesses play an important economic role. This application is for a dwelling associated with an equine establishment and dog kennels, which are both considered activities acceptable within the countryside.

Criteria of Annex A, PPS7

Functional Test

In considering functional need, PPS7 advises that it is necessary to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Such a requirement may arise for example where workers are needed on site in case animals or agricultural processes require essential care at short notice, or to deal with emergencies that could otherwise result in serious loss if not dealt with quickly. The supporting statement accompanying the application in respect of the functional need lists the supervision requirements of the enterprise, which principally concern the welfare and security of the animals on site. In respect of each use, the need for 24hr supervision is supplied. These include;

- Specialist care and supervision, including the administration of medication, catering for special dietary requirements or illnesses and monitoring for "colic" in horses, which often occurs during the night and can be fatal.
- Supervision against theft, which the agent identifies as increasing in the UK, in respect of dogs, horses and fish. In respect of security, Annex A acknowledges that this is a material consideration that may contribute on animal welfare grounds to the

need for a new dwelling. It cannot, however, be the sole justification for a new dwelling.

- To prevent mortality caused by numerous sources, as this would be unacceptable for family pets such as horses and dogs. In respect of fish, supervision will ensure that oxygen levels don't fall leaving the fish vulnerable to suffocation, and to ensure that the free range chickens would be securely housed at night to reduce their susceptibility to predators.
- In respect of commercial kennels, in order for a licence under the Animal Boarding Establishment Act 1963 to be granted, on site accommodation is required to ensure 24hr supervision and care is provided.

Although justification has been provided as to why 24hr supervision is necessary, the Local Planning Authority do not feel convinced that the issues stated warrant continual on site presence by the applicants. In respect of monitoring the horses for colic, this can occur at any point of the day, as with any illness, and if managed would not prove fatal, if the animals which are boarding or at livery at the kennels are properly cared for, there is no reason why mortality rates would be affected by whether or not there is a continual presence. In respect of the fishing enterprise, this is not of a scale to warrant 24hr supervision, and once the chickens are securely housed, there is no need for further checking throughout the night. Accordingly it is felt that the dwelling would be more for the convenience of the applicants, than the welfare of the animals.

Other Suitable Accommodation

In addition to identifying a functional need, it is also necessary to consider whether that need can be accommodated by existing dwellings on the holding, or by any other available accommodation within the locality. Although there is no other dwelling on site, the applicants live on Equity Road East, Earl Shilton, and their property is less than a mile from the site. This complies with government and local policy advice in respect of such development. Further, whilst it is acknowledged that the applicants do not live within site or sound of the farm, it is considered that security and monitoring could be significantly improved through the installation of a CCTV system. Better security would overcome most of the problems the owners currently state they suffer, and would not require the presence of an on-site dwelling.

Financial Test

The agent has provided a financial appraisal for each of the different uses on site; in order for the financial viability of the holding to be assessed.

The Borough Council's Agricultural Appraisal Consultant has assessed the financial and functional information provided and has verbally advised that, in his opinion, the proposal does not pass either the functional or financial tests of Annex A of PPS7 and there is insufficient support for a temporary "Occupational" dwelling on the site. Details of the formal response will be reported as a late item.

As such, the proposed dwelling is contrary to central government guidance and adopted Local Plan policies that seek to protect the character and appearance of the countryside from residential development that does not have any special justification. It is considered, therefore, that the application should be refused on policy grounds, and as there is insufficient justification to warrant the erection of a dwelling.

Siting and Design

Although small scale and temporary in nature, as no functional or financial need for the dwelling has been proven, the development will constitute new development in the countryside and will accordingly be contrary to the intentions of Policy NE5 of the adopted

Hinckley and Bosworth local plan. Further, in respect of temporary dwellings, PPS7 advises that planning permission should not be granted where the location would not be suitable for a permanent dwelling, and where the requirements for a permanent dwelling can not be achieved. As the application is considered to have failed the requirements for a permanent dwelling, and as the proposal will be located in the countryside, the proposal does not comply with the requirements of PPS7. The acceptance of a dwelling for this site, which presently operates on a fairly small land holding of 20 acres (part rented), could encourage this type of use to be established elsewhere in the Borough, with the same eventual requirement for a dwelling in the open countryside. This would set a precedent for similar development, making it harder for the Local Planning Authority to subsequently resist them.

Conclusion

Both central government guidance and adopted Local Plan policies seek to protect the countryside for its own sake. There is no special justification for the proposed dwelling in this countryside location as it fails the tests identified in Annex A of PPS7 and the application is therefore recommended for refusal.

RECOMMENDATION :- REFUSE, for the following reasons :-

- 1 In the opinion of the Local Planning Authority, from the information provided, the proposed Occupational dwelling does not pass the functional or financial tests set out in Paragraphs 4, 8 and 15 of Annex A to Planning Policy Statement 7. The proposal therefore represents an unwarranted and unacceptable intrusion of residential development in an unsustainable location in the countryside to the detriment of the character and appearance of the landscape and visual amenity. The proposal is therefore contrary to policies BE1 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance in Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3: 'Housing' and Planning Policy Statement 7 'Sustainable Development in Rural Areas'.
- 2 The approval of this proposal would set a precedent for the consideration of further applications of a similar nature, to which the Local Planning Authority would also object, but which would consequently be difficult to resist and could lead to a proliferation of new residential development in the countryside. The proposal is contrary to Policies BE1 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance in Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3 'Housing' and Planning Policy Statement 7 'Sustainable Development in Rural Areas'

Notes to Applicant:-

- 1 List of plans used in the determination of this application:- Drg Nos. PL-05; Elevations 1, 2 and 3; Plan 1; Site Plan Scale 1:2500; Design and Access Statement; Appraisal Of The Need For A Temporary Dwelling.

Contact Officer:- Eleanor Shaw Ext 5691

Item: 11
Reference: 09/00255/FUL
Applicant: Mr Chris Jackson
Location: 81 Florian Way Hinckley Leicestershire LE10 0WG
Proposal: EXTENSIONS AND ALTERATIONS TO DWELLING.

Introduction:-

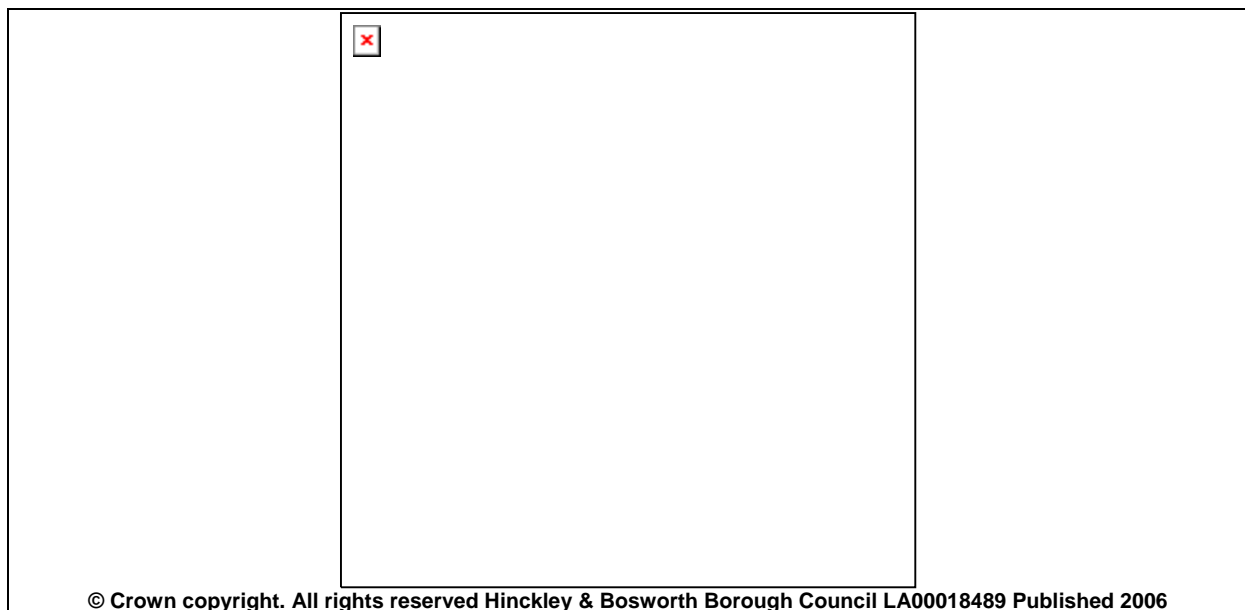
This application seeks full planning permission for the erection of a side garage extension at 81 Florian Way, Hinckley. The proposed garage will be located on the northern elevation set back from the front elevation by 1 metre and the side boundary by 0.1 metres. The garage will measure 2.9 metres wide, 6.6 metres long and 3.9 metres high with a pitched roof.

The property is a modern detached dwelling within a residential estate of similar character.

This application is to be determined by committee because the applicants Agent is a Borough Councillor.

History:-

None applicable.



Consultations:-

No objection has been received from Head of Community Services (Pollution).

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

Neighbours
Head of Community Services (Land Drainage).

Policy:-

The Local Plan (adopted 2001)

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

Policy BE1 relates to the design and siting of development. It seeks a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. It requires developments to complement or enhance the character of the surrounding area and not to adversely affect the occupiers of neighbouring properties.

Supplementary Planning Guidance

Adopted Supplementary Planning Guidance: House Extensions Design Guidance (SPG) reinforces Local Plan Policy BE1 in regards to design principles and provides guidance on the acceptable limits of extensions.

Appraisal:-

The main considerations in respect to this application are the principle, layout, design, impact on neighbouring properties and street scene.

The Principle

The site is located in a modern residential estate within Hinckley and the erection of a garage ancillary to a dwelling is considered acceptable.
Layout, Design and Impact on the Street Scene

The proposed garage meets the design principles set out in the House Extensions SPG in that it does not exceed half the width of the house, is single storey and set back from the property's front building line. The SPG states single storey side extensions will be acceptable to the site boundary where they are set back a minimum of 0.5 metres. The garage will be attached to the side of the house in line with the existing driveway arrangements from Florian Way providing easy access to the new garage. The roof of the garage will be pitched to match the existing property and with a floor area of just over 19 metres square would be of an acceptable mass and scale in relation to this detached property.

The proposed garage will be visible from the street scene however single storey side garages are common on this street and this addition would appear as an integral feature to the property with a condition requiring materials to match the existing dwelling.

Therefore the proposed garage would be acceptable in terms of layout, design and impact on the street scene.

Impact on neighbouring properties

The elevation closest to adjacent property 83 Florian Way has no openings and as such will not impact on privacy to this property. The proposed garage is set back from the front boundary of both the application property and the adjacent property and will have no impact on levels of light received to any habitable window. Therefore the proposed garage will not adversely affect neighbouring properties.

Conclusion

Overall the proposed single storey garage is of an acceptable mass and scale in relation to the dwelling and would appear as an integral feature to this modern property. The design is simple and unobtrusive and includes a roof to match the dwelling and meets the design principles in the House Extensions Guidance. The garage will not adversely affect any

neighbouring properties and with a condition requiring materials to match would comply with Local Plan Policy BE1 and as such this application is recommended for approval.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan and would not harm the character or appearance of the area or the living conditions of neighbouring occupiers.

SUMMARY OF DECISION - The proposal is in conformity with Policy BE1 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 materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials of the existing dwelling unless previously agreed in writing with the Local Planning Authority.

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.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 List of plans used in the determination of this application:-
Drawing- 'Proposed Garage 81, Florian Way'.

Contact Officer:- David Kiernan Ext 5898

Item: 12

Reference: 09/00257/COU

Applicant: Mr S Woodward

Location: Odstone Hall Hall Lane Odstone Nuneaton Leicestershire

Proposal: CHANGE OF USE OF PART DWELLING TO A 6 BEDROOMED GUEST HOUSE

Introduction:-

This application is for the change of use of part of Odstone Hall, Odstone, into a six bedroomed guest house, whilst retaining domestic accommodation for the applicant's family. No alterations to the structure of the building are proposed as part of this application.

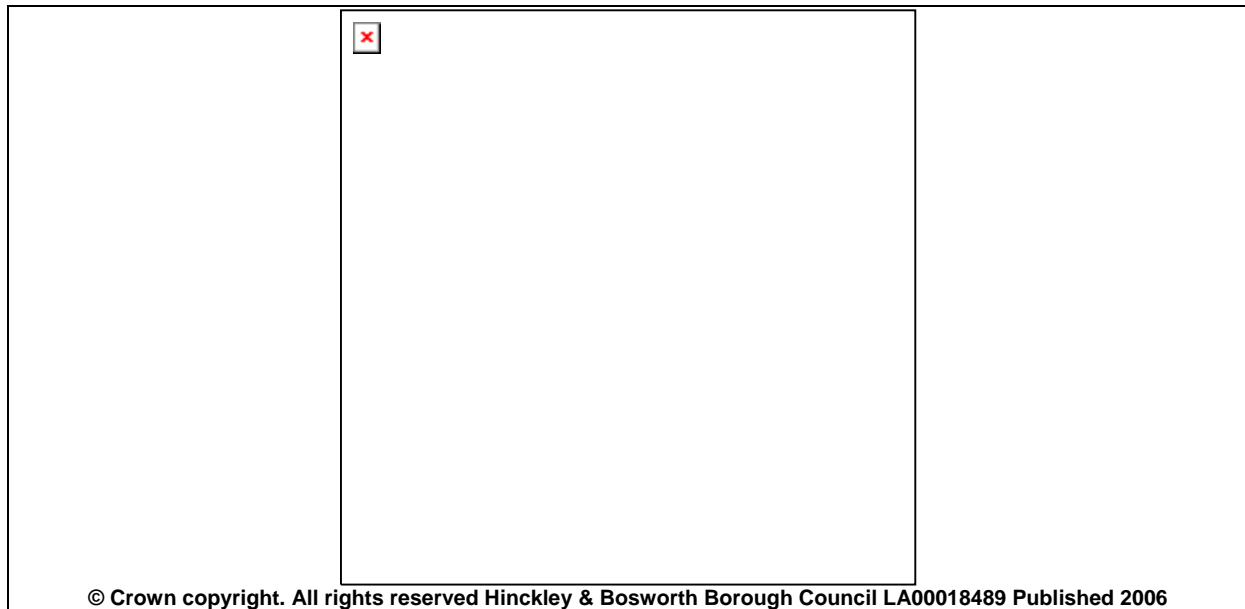
Odstone Hall is a Grade II Listed Building, which is located within large grounds(the site is 0.55 hectares) at the end of Hall Lane. There is a public footpath which runs along the south eastern boundary. Open fields are to the west and south with a barn converted dwelling to the north.

The proposed guest house would be licensed and offer 6 bedrooms for bed and breakfast use. One suite is located within the separate 'Old Bakehouse' outbuilding which was granted listed building consent for retrospective conversion to living accommodation in 2008 (08/00550/LBC). The guests would also have access to the garden which includes a swimming pool and floodlit tennis court, the family dining room and drawing room. Evening meals for guests would be available on request. Car parking for 6 guests cars would be available within the existing forecourt. Overall, 20 spaces for cars are available within the site. It is envisaged that there will be no employees in connection with the proposed use.

The Design and Access Statement refers to the Hall deteriorating badly during the second half of the last century and it has been carefully restored by the current owners within the last 9 years. The Hall requires constant work to maintain its upkeep and this application attempts to establish a new, acceptable use for the hall compatible with its important character and listed status, which will contribute a source of income towards the ongoing maintenance work. The previous application to use the Hall as a small, wedding venue was withdrawn because there was local opposition and the current owners had no wish to upset with their neighbours.

History:-

09/00005/COU	Change of Use for use as a wedding venue	Withdrawn	06.02.09
08/00550/LBC	Retrospective conversion of outbuilding to provide living accommodation	Approved	21.07.08
02/00520/FUL	Erection of detached garage	Approved	04.07.02
01/00151/LBC	Demolition of porch and fenestration alterations	Approved	21.03.01
00/01150/LBC	Rebuilding of central pediment and replacement of existing windows.	Approved	22.01.01



Consultations:-

No objection has been received from Head of Community Services (Pollution).

At the time of writing this report no response had been received from:-

Director of Highways, Transportation and Waste Management (Highways)
Shackerstone Parish Council
Historic Buildings Panel
Site and Press Notices.

One letter received raising concerns that although the application is for change of use to a guest house, the property is still being advertised on the website as a venue for marriage ceremonies.

Policy:-

National Policy

Planning Policy Guidance Note 15 - Planning and the Historic Environment sets out a statement of Government policies for the identification and protection of historic buildings, conservation areas, and other elements of the historic environment. New uses may often be the key to a building's preservation and often the best way of securing the upkeep of historic buildings is to keep them in an economically viable use provided that it is compatible with the fabric, interior and setting of the building.

Local Plan Policies

The hamlet of Odstone does not have a settlement boundary, and is therefore located within the countryside as defined in the adopted Hinckley and Bosworth Local Plan.

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

Policy BE1 Design and Siting of Development seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment.

Policy REC21 'Tourist Accommodation' states that, in open countryside planning permission will only be granted for new accommodation where it can be demonstrated that such accommodation makes use of existing property or can be satisfactorily integrated with the scale of existing buildings with which it is associated. In all cases, the proposal should be acceptable in terms of design, siting and highway considerations in respect of both residential and recreational development.

Policy BE6 states that the change of use of Listed Buildings will be granted where the character, appearance, fabric, integrity and setting of the building is preserved and its special architectural or historic interest is not compromised.

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.

Appraisal:-

The main issues for considerations with regard to this application are the principle of the proposed development and impact on the countryside, the listed building, residential amenity of neighbours and the local highway network.

Principle

The site lies within the countryside which should be protected for its own sake. However, the proposal does not involve any new built development and car parking will utilise the existing forecourt area. The limited business use proposed is unlikely to have any adverse effect on the character or appearance of the surrounding landscape and will be in keeping with the scale and character of the existing property as well as its setting. Consequently, it is considered that the principle of the proposal accords with countryside policy.

Impact on the Listed Building

There are no changes to the existing structure of the building proposed. The Design and Access Statement states that the proposed use is intended to be low key and have no detrimental impact upon the character or structure of the listed building because it is the character that will give the venue its visitor appeal. Minor modifications will be necessary to comply with Building Regulations and these may also require Listed Building Consent.

Impact on Neighbours

The proposed level of operation which will increase the number of persons staying at the Hall is unlikely to have a significant impact on the amenities enjoyed by the neighbours in terms of the use of the rooms. The potential increased use of the garden, tennis courts and swimming pool, together with the increase in vehicle numbers visiting the site may have a limited impact on neighbours amenity. The previously withdrawn application for use as a wedding venue had raised concerns from neighbours relating to highway safety, noise and disturbance, particularly at night. This use is considered to be more acceptable in terms of the numbers of guests and therefore vehicles visiting the site.

Highway Considerations

During consideration of the previous, withdrawn application, concerns were raised regarding the width of Hall Lane and its junction with Barton Road, therefore, the formal comments of the Highway Authority are awaited and will be reported as a late item.

Conclusion

It is considered that the scale of this proposed use would be acceptable in terms of the effect on the countryside, the listed building and on neighbours residential amenity. The proposal is considered to be a suitable use for this substantial and distinctive property, and will help to ensure its future maintenance. The comments of the Highway Authority are awaited and subject to there being no significant highway concerns the scheme is considered to be acceptable.

RECOMMENDATION:- That subject to no 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 below.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it is not considered to have a detrimental effect on the character and setting of the listed building, the countryside or have a significant adverse impact on the amenities of neighbouring properties or highway safety.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, BE6, NE5, REC21 and T5

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The existing car parking area shall be retained at all times that the use hereby permitted is in operation.
- 3 The dining room, tennis court and swimming pool shall only be used in connection with the occupation of the property as a private residence and 6 bedroom guest house accommodation and for no other purposes.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure that adequate off-street parking is available within the site, to accord with policies BE1, NE5, REC21 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 3 To safeguard residential amenity of neighbouring properties and to ensure that the amount of traffic generated by the use is limited to a level appropriate for the site's location, to accord with policies BE1, NE5 and REC 21 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 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 Whilst this permission grants consent in principle for the limited use of Odstone Hall as a guest house, Building Regulation approval will also be required which may involve works that also require Listed Building consent. If these involve alterations which are considered detrimental to the character of the building or impact unacceptably on its architectural or historic qualities, this consent is unlikely to be forthcoming.
- 5 List of plans used in the determination of this application:- Site Location Plan.

Contact Officer:- Louise Forman Ext 5682

PLANNING COMMITTEE – 5 MAY 2009

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

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

3.1.2 Appeal by Mr Graham Wragg against the refusal of planning permission for conversion of barns into two dwellings (08/00978/FUL and 09/00029/FUL) at Common Farm, Barton Road, Carlton. (Public inquiry).

3.1.3 Appeal by Duncan-Smith Property Ltd against the refusal of planning permission for relocating garage block with duplex apartment (08/00978/FUL) at 60 Main Street, Higham-on-the-Hill. (Written representations)

3.2 Appeals Determined

3.2.1 Appeal by Ms Lynn Bailey against the refusal of planning permission by Hinckley and Bosworth Borough Council for change of use from agricultural store to residential use at Amblyn Stud Farm, Hinckley Road, Cadeby.

3.2.2 The Inspector considered that the two main issues were whether the arguments in favour of the proposed change of use to a dwelling were sufficient to justify an exception to policy designed to protect the countryside from non-essential development, and the effect of the change of use on road safety.

3.2.3 The Inspector took account of the planning history of the site, the current use of the land and the existing development on the site. The Council agreed that the applicant was not running an agricultural enterprise on the site. It was argued that the dwelling was required to enable the applicant to care for her own horses and continue the therapy they provide. The Inspector, satisfied that the proposal was not an agricultural dwelling, then considered if the personal circumstances of the applicant outweighed local and national policy.

3.2.4 The Inspector acknowledged that Policy NE5 allowed the re-use of existing buildings in the open countryside but noted that the state and appearance of the dwelling did not warrant its retention on grounds of architectural or historic

value. The Inspector gave considerable weight to the unsustainable nature of the site, noting that most trips would have to be done by private car. He concluded that the proposed change of use would significantly harm the character and appearance of the countryside and did not consider that the personal arguments in support of the proposal were sufficient to justify an exception to policy.

3.2.5 Highway considerations were then addressed, and, whilst the issues around visibility had been overcome, there were still concerns regarding the amount of trips generated by a permanent dwelling on the site. The Inspector considered that a new dwelling on this site would generate a substantial number of vehicle trips resulting in a 'significant intensification in turning traffic at the access', which would result in a potential hazard, to the detriment of road safety.

3.2.6 INSPECTOR'S DECISION

Appeal Dismissed (Officer Recommendation)

4. FINANCIAL IMPLICATIONS (AB)

4.1 It is anticipated that all the costs incurred and costs recovered will be met from existing revenue budgets

5. LEGAL IMPLICATIONS (MR)

5.1 None

6. CORPORATE PLAN IMPLICATIONS

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

- Safer and Healthier Borough.

7. CONSULTATION

7.1 None

8. RISK IMPLICATIONS

8.1 None

9. RURAL IMPLICATIONS

9.1 None

10. **CORPORATE IMPLICATIONS**

10.1 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 |
| - Voluntary Sector | None relating to this report |
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Background papers: Appeal Decisions

Contact Officer: Sarah Humphries ext 5680

PLANNING COMMITTEE - 5 MAY 2009

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: 24.04.09

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
09/0008/PP Conjoined with 09/0006/PP	LF	09/00029/FUL	PI	Graham Wragg	Common Farm Barton Road Carlton	Start Date 3rd Party notified Rule 6 Proof of Evidence Inquiry Date (2 days)	30.04.09 30.04.09 28.05.09 03.06.09 01&02.07.09
Planning	RW	08/00787/FUL	WR	Gary Smith	2 Hawthorn Rise Groby	Awaiting Start Date	
09/00007/PP	JH	08/01073/FUL	WR	Duncan Smith Property Ltd	60 Main Street Higham on the Hill Nuneaton	Start Date Statement Comments	25.03.09 06.05.09 27.05.09
09/00006/PP	LF	08/00978/FUL	PI	Mr G Wragg	Common Farm Barton Road Carlton	Start Date Rule 6 Proof of Evidence Inquiry Date (2 days)	25.03.09 06.05.09 03.06.09 01&02.07.09
09/00005/PP	RW	08/00463/OUT	WR	Mr Bally Chauhan	Broomcroft Bradgate Hill Groby	Start Date Comments	27.02.09 01.05.09
09/00002/PP 09/00003/PP 09/00004/PP	LF	08/00627/FUL 08/00635/COU 08/00636/COU	PI	Mr Roy Borthwick	Pinewood Lodge Holiday Village Overton Road Ibstock	Start Date Proof of Evidence Inquiry Date	19.02.09 11.06.09 09.07.09

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

DECISIONS RECEIVED FOR THE FOLLOWING APPEALS

08/00015/PP	JH	07/00157/COU	IH	Ms Lynn Bailey	Amblyn Stud Farm Hinckley Road Cadeby	DISMISSED	08.04.09
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09/00001/ADV	DK	08/01055/ADV	WR	Tesco Stores Ltd	Tesco Stores Ltd 1 Hawley Road Hinckley	DISMISSED	21.04.09
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Rolling April - 2009/10

Planning

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision		
					Allow	Spt	Dis	Allow	Spt	Dis
2		2			-	-	2			

Enforcement

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn

