

Date: 22 May 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)

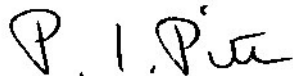
Dear Councillor

There will be a meeting of the **PLANNING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **TUESDAY, 2 JUNE 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

2 JUNE 2009

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 5 May 2009 attached marked 'P1'.

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 'P2' (pages 1 – 43).

8. THE BOROUGH OF HINCKLEY AND BOSWORTH (LAND AT 17 HINCKLEY ROAD, EARL SHILTON) TREE PRESERVATION ORDER 2009

Report of the Deputy Chief Executive attached marked 'P3' (pages 44 - 60).

RESOLVED

9. APPEALS LODGED AND DETERMINED

Report of the Director of Community and Planning Services attached marked 'P4' (pages 61 – 62).

RESOLVED 10. APPEALS PROGRESS

Report of the Director of Community and Planning Services attached marked 'P5' (pages 63 – 65).

RESOLVED 11. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

RESOLVED 12. MATTERS FROM WHICH THE PUBLIC MAY BE EXCLUDED

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

RESOLVED 13. PLANNING ENFORCEMENT ACTION

Report of the Director of Community and Planning Services attached marked 'P6' (pages 66 – 94).

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

5 MAY 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, Mr K Morrell, Mr K Nichols, Mr LJP O'Shea, Mr BE Sutton, Mr R Ward and Mrs BM Witherford.

In accordance with Council Procedure Rule 4.4 Messrs D Bill, SL Bray and C Ladkin also attended the meeting.

Officers in attendance: Mrs T Darke, Ms C Horton, Miss R Owen, Mr TM Prowse and Mr M Rice.

547 **APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Mr JG Bannister.

548 **MINUTES (P67)**

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

RESOLVED – the minutes of the meeting held on 7 April 2009 be confirmed and signed by the Chairman.

549 **DECLARATIONS OF INTEREST**

No interests were declared at this stage.

550 **DECISIONS DELEGATED AT PREVIOUS MEETING**

The Director of Community and Planning Services reported on the following decisions which had been delegated at the previous meeting:

- (a) 09/00044/FUL: The objection from the Head of Corporate and Scrutiny Services (Green Spaces) had not been withdrawn, therefore the refusal had been issued;
- (b) 09/00067/OUT: The Section 106 Agreement had been executed and the approval issued;
- (c) 09/00144/FUL: Approval had been issued;
- (d) 09/00164/FUL: Refusal had been issued.

551 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) 09/00280/COU – 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, Land to the North of Bagworth Road, Nailstone – Mr Robert Hodgetts (Snr) and Others

Mr Bannister arrived at 6.50pm.

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

RESOLVED – 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 stated in the officer's report and late items.

- (b) 09/00207/TEMP – Private Gypsy caravan site for four caravans temporary for three years, Land at Heath Road, Bagworth – Mr Paul Finney

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

RESOLVED – the application be refused for the reasons contained in the officer's report.

- (c) 09/00267/GDOT – Erection of a 12.4m Vodafone Mast with equipment cabinet and associated works, Street verge, Rugby Road, Burbage – Vodafone

Mr Crooks left the meeting at 7.25pm and returned at 7.26pm.

It was moved by Mr O'Shea, seconded by Mr Bown and

RESOLVED – subject to no other significant representations being received the Director of Community and Planning Services be granted powers to refuse planning permission for the reasons outlined in the officer's report.

- (d) 09/00142/LBC – Conversion and adaptation of the existing Grade II Listed Goddard Building to facilitate use as a creative industries centre including associated parking, Atkins Bros Ltd, Lower Bond Street, Hinckley – HBBC and North Warwickshire and Hinckley College

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

RESOLVED – powers be delegated to the Director of Community and Planning Services to refer the application to the Secretary of State following 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.

- (e) 09/00080/FUL – Erection of Youth Centre and Community facilities including external activity areas and parking, Richmond Park, Richmond Road, Hinckley – Hinckley Club for Young People

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

RESOLVED – the application be approved subject to the conditions contained in the officer's report and late items.

Mr Bray left the meeting at 7.38pm.

- (f) 09/00140/REM – Approval of reserved matters for outline permission 05/00335/OUT, Land Outlands Drive, Hinckley – Jelson Ltd

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

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

Mr Bill left the meeting at 7.51pm.

- (g) 09/00176/COU – Change of use from class C3 dwelling house to class C2 childrens care home (amended scheme) including alteration to site access, Wiseacre, Leicester Lane, Desford – Keys Childcare Ltd

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

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

Mr Inman left the meeting at 8.20pm.

- (h) 09/00178/FUL – Erection of an agricultural dwelling, Breach Farm, Breach Lane, Earl Shilton – Mr Tony Abbott

Mr Inman returned to the meeting at 8.28pm.

Notwithstanding the officer's recommendation to refuse the application, some Members felt that the application should be approved due to the benefits of the farmer living on-site. It was moved by Mr Sutton and seconded by Mr Ward that the application be approved.

The Director of Community and Planning Services requested that the voting on this motion be recorded in accordance with Council Procedure Rule 18.4. The voting was recorded as follows:

FOR the motion: Mr K Morrell, Mr BE Sutton and Mr R Ward (3)

AGAINST the motion: Mr R Mayne, Mrs M Aldridge, Mr JG Bannister, Mr CW Boothby, Mr JC Bown, Mr WJ Crooks, Mrs A Hall, Mr P Hall, Mr CG Joyce, Mr K Nichols, Mr LJP O'Shea and Mrs BM Witherford (12)

Abstentions: Mr DW Inman (1).

The motion was therefore LOST.

It was then moved by Mr Nichols, seconded by Mr Bown and

RESOLVED – the application be refused for the reasons stated in the officer's report.

- (i) 09/00237/FUL – Conversion of Barns into 2 dwellings, Common Farm, Barton Road, Carlton – Mr G Wragg and AR Demolition Ltd

Notwithstanding the officer's recommendation to refuse the application, some Members felt that continuing with the conversion of the barns would enhance the site. It was moved by Mr Sutton and seconded by Mr Morrell that the application be approved.

In accordance with Council Procedure Rule 18.4, the Director of Community and Planning Services requested that voting on this motion be recorded. The vote was taken and recorded as follows:

FOR the motion: Mrs M Aldridge, Mr CW Boothby, Mr WJ Crooks, Mr P Hall, Mr K Morrell, Mr LJP O'Shea, Mr BE Sutton and Mr R Ward (8)

AGAINST the motion: Mr R Mayne, Mr DW Inman, Mr JG Bannister, Mr JC Bown, Mrs A Hall, Mr CG Joyce, Mr K Nichols, Mrs BM Witherford (8).

There being an equal number of votes for and against the motion, in accordance with Council Procedure Rule 18.2 the Chairman exercised his casting vote, and voted against the motion. The motion was therefore LOST.

Voting then took place on the officer's recommendation, with 8 voting for the recommendation and 8 against. Upon the Chairman's casting vote, 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 the application for the reasons contained in the officer's report.

- (j) 09/00246/TEMP – Temporary Occupational Dwelling at Boarding Kennels, Stanmaur Farm, Breach Lane, Earl Shilton – Mr C Klenk

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

RESOLVED – the application be refused for the reasons contained within the officer's report.

Messrs Boothby and O'Shea left the meeting at 9.13pm.

- (k) 09/00255/FUL – Extensions and alterations to dwelling, 81 Florian Way, Hinckley – Mr Chris Jackson

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

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

- (l) 09/00257/COU – Change of Use of part of dwelling to a 6-bedroomed guest house, Odstone Hall, Hall Lane, Odstone

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

RESOLVED – 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 contained in the officer's report.

552 APPEALS LODGED AND DETERMINED (P69)

A summary was submitted of appeals lodged and determined since the last meeting.

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

RESOLVED – the report be noted.

553 APPEALS – PROGRESS (P65)

A schedule was submitted indicating the stages that various appeals against planning decisions had reached. In presenting this report, the Director of Community and Planning Services highlighted the Council's much improved performance on planning appeals during 2008/09 which was within the upper quartile when compared with all other planning authorities. It was moved by Mr Nichols, seconded by Mr Crooks and

RESOLVED – the report be noted.

(The meeting closed at 9.25pm)

PLANNING COMMITTEE AGENDA - 2 June 2009 - NUMERIC INDEX

REF. NO.	APPLICANT	SITE	ITEM	PAGE
09/00211/FUL	Mr John Cawrey	Land Adjacent M1 Ferndale Drive Ratby	01	
09/00236/FUL	Mr W Richardson	295 Main Street Thornton	02	
09/00297/FUL	Mr C. Whitfield	Knoll Farm Forest Road Markfield	03	
09/00300/FUL	The Crown Estate	1 Burton Road Twycross	04	
09/00323/FUL	Mr Arek Kulakowski	Broomhills Farm Desford Lane Peckleton	05	

REPORT P2

PLANNING COMMITTEE

2 June 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: 09/00211/FUL

Applicant: Mr John Cawrey

Location: Land Adjacent M1 Ferndale Drive Ratby Leicestershire

Proposal: ERECTION OF 36 NO. DWELLINGS AND 14 NO. SUPPORTED HOUSING UNITS

Introduction:-

This is a full application for the erection of 36 dwellings and 14 apartments on land to the north east of Ratby between the existing village and the M1.

The application site is bound by the M1 to the north east, and by earth bunds with residential development beyond to its remaining boundaries. It is also crossed by public footpaths. To the south of the site is residential development currently under construction by the applicant. The scheme proposes to continue Fielding Lane from this current development into the application site providing access to the 36 dwellings and leading to the apartments to the north of the site.

The application proposes 22 three-bedroomed semi-detached properties, 8 two-bedroomed semi-detached, 4 four-bedroomed detached houses, and 2 two-bedroomed mobility bungalows. The apartments have been designed for supported living and consist of 10 one-bedroomed and 4 three-bedroomed units along with accommodation for a carer. The extension of Fielding Lane to access the site has resulted in 4 semi-detached properties from the previous scheme no longer being able to be built. The application is therefore a net gain of 46 units.

The site has been laid out with properties arranged in an east-west direction to allow all properties to have a south facing elevation. The dwellings themselves have been designed to achieve Level 5 of the Code for Sustainable Homes through the incorporation of high levels of insulation and air tightness and through the internal distribution of rooms to take advantage of solar gains.

The application proposes the retention of the majority of a hedgerow that crosses the site with a pedestrian and cycle way proposed to run adjacent to this through the site linking Fielding Lane and Groby Road. A landscaped bund is also proposed between the dwellings and the motorway.

The application plan shows a proposed Doctors' Surgery and Day Nursery. However this does not form part of the application.

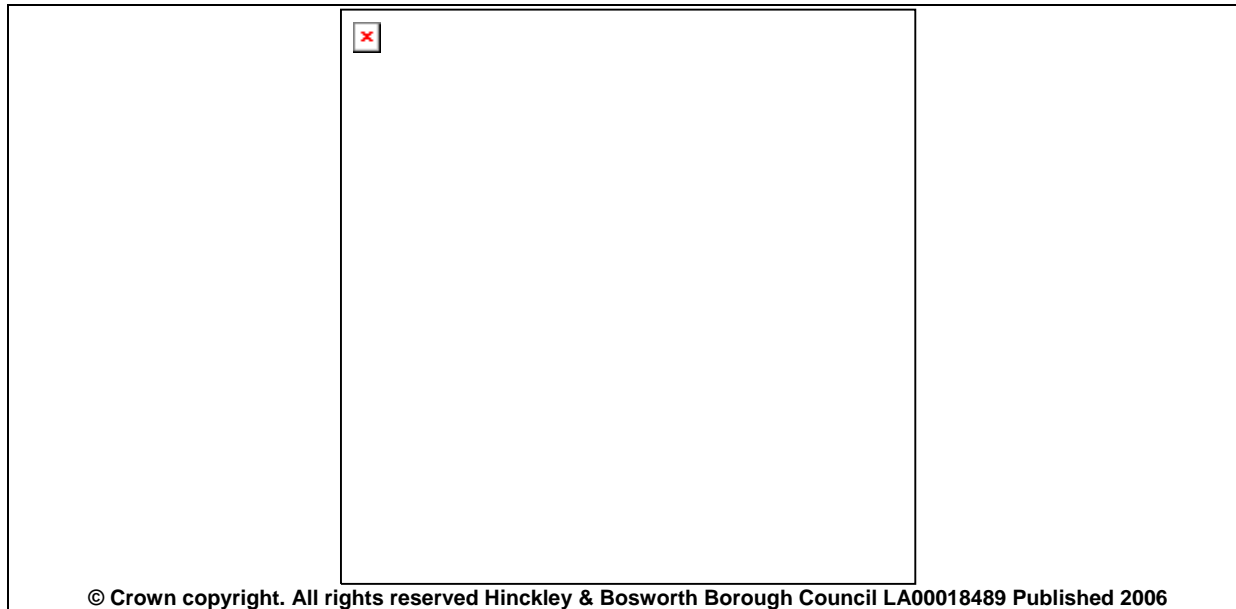
Members may be aware that the site was subject to a similar application for 56 dwellings in 2008 which was withdrawn following concerns raised by the Highways Agency and issues regarding the layout of the site.

The application is supported by a Supporting Statement, a Design and Access Statement, an Ecological Survey, a Flood Risk Statement, a Transport Assessment, a Housing Needs Assessment and Viability Report, a Public Consultation Report, an Acoustic Report and a Geotechnical Site Investigation Report.

The Design and Access Statement concludes “the new proposal has a distinctive appearance of its own but retains some characteristics of the housing surrounding the site so that it will fit in with the general housing pattern in the area”.

History:-

08/00299/FUL Erection of 36 Houses and Withdrawn 20.03.08
20 Apartments



Consultations:-

No objection has been received from:-

The Highways Agency
The Director of Highways, Transportation and Waste Management (Highways).

No objection subject to conditions have been received from:-

Head of Community Services (Land Drainage)
Severn Trent Ltd
The Environment Agency
Head of Community Services (Pollution).

The Director of Community Services (Archaeology) has requested that an Archaeological Desk Based Assessment is carried out prior to determination of the application.

The Director of Community Services (Rights of Way) does not object to the application but requests a condition is attached so that the footpath which runs through and adjacent to the application site is surfaced with tarmac to a width of 1.8 metres with dropped kerbs provided where the footpath crosses Fielding Lane.

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

- a) Director of Community Services (Ecology) – Require the replacement of lost habitat by replacing trees and hedgerows.

- b) Director of Children and Young People's Service (Education) – Request a contribution from the 36 dwellings of £64,368 towards Brookvale High School and £104,544 towards Ratby Primary School.
- c) Head of Commercial and Support Services (Libraries) – Request a contribution of £2,720 towards the costs of an enhanced programme of refurbishment and improvements to facilities including equipment and other library materials.
- d) Director of Highways, Transportation and Waste Management (Civic Amenity) – request a total of £862 towards a fund to extend and improve the Civic Amenity site at Coalville.

The Primary Care Trust have requested a total contribution of £46,670.

The Leicestershire Constabulary Crime Reduction Officer does not object to the application but suggests amendments to improve security which can be agreed through the proposed landscaping condition. The Officer also requests a contribution of £606 per apartment, £30,300 in total to be directly used within the Local Policing Unit.

Ratby Parish Council objects to the application due to the extra traffic which would cause more congestion on Fielding Lane and Ferndale Drive. They also raise concern that S106 contributions will be used in Groby not Ratby.

The Head of Corporate and Scrutiny Services (Green Spaces) has raised concern that the main area of open space proposed within the site is not overlooked by adjacent properties and therefore does not create a safe play space and is likely to attract anti-social behaviour. The area also does not link with the development nor add any amenity value.

Site notices and Press notice were displayed and neighbours notified. 3 letters of objection have been received raising the following concerns:-

- a) Impact on village infrastructure
- b) Impact of traffic passing through built up area
- c) Impact on house prices
- d) Impact on character of the area
- e) Physical barrier required between Overfield Walk and Fielding Lane
- f) Impact of road construction on neighbours and wildlife.

Policy:-

Planning Policy Statement 1 - Delivering Sustainable Development sets out the Governments objectives for the planning system. The document states that high quality and inclusive design should be the aim of all those involved in the development process.

Planning Policy Statement 3 - Housing sets out the national planning policy framework for delivering the Government's housing objectives. This document states at paragraph 12 that good design is fundamental to the development of high quality new housing. Paragraph 47 sets out 30 dwellings per hectare as the national indicative minimum density.

The PPS states the need for Local Planning Authorities to set out policies and strategies for delivering housing provision which will enable continuous delivery of housing for at least 15 years. Further to this, sufficient specific deliverable sites to deliver housing in the first five years should be identified. Paragraph 71 of PPS3 states that where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites they should consider favourably planning applications for housing.

Planning Policy Guidance Note 13 – Transport sets out national transport planning policy. With regards to parking provision this states that Local Authorities should 'not require developers to provide more spaces than they themselves wish' and that 'reducing the

amount of parking in new development is essential, as part of a package of planning and transport measures, to promote sustainable travel choices’.

The Local Plan (adopted February 2001)

The site is adjacent to the settlement boundary of Ratby as defined in the adopted Hinckley and Bosworth Local Plan.

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

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

Policy REC3 New Residential Development - Outdoor Play Space for Children of the adopted Hinckley and Bosworth Local Plan requires the appropriate level of open space to be provided within development sites or, alternatively, a financial contribution to be negotiated towards the provision of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area. Supplementary Planning Guidance (October 2002) gives further advice regarding the provision of Play and Open Space.

Policy RES3 of the adopted Hinckley and Bosworth Local Plan concerns provision of affordable housing on sites not specifically allocated for residential purposes. This sets out that an element of affordable housing will be negotiated with developers related to the need for affordable housing in the area in which the site is situated. Affordable dwellings may be provided on site, off site or by financial contribution.

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

Policy NE3 refers to Green Wedges. The application site falls within the designed Green Wedge between Groby, Martinshaw Wood, Ratby and the Borough Boundary. The open character of these areas will be protected and wherever possible improved. Planning permission will only be granted for agriculture, forestry, sport and recreation, transport routes or mineral uses provide that the proposal does not have an adverse effect on the open character; does not undermine the physical separation or character of the settlements separated by the Green Wedge; and is in keeping with the scale and character of the surrounding area.

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: Highway Design and Vehicle Parking Standards of the adopted Hinckley and Bosworth Local Plan refers to the application of appropriate standards for highway design and parking provision for new development.

Policy T9: Facilities for Cyclists and Pedestrians encourages walking and cycling including facilities for cycle parking.

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

Policy NE12: Landscaping Schemes states that proposals for development should take into account the existing features of the site and make provision for further landscaping where appropriate.

Policy IMP1 requires contributions towards the provision of infrastructure and facilities to serve the development commensurate with the scale and nature of the development proposed.

Other Development Plan Documents and Supplementary Planning Guidance / Documents:-

Further guidance is provided within the Borough Council's Supplementary Planning Guidance for Residential Development and the Supplementary Planning Documents concerning Play and Open Space, Sustainable Design and Affordable Housing.

The Site Allocations Preferred Options Document has recently been out for public consultation. This highlights the application site as a preferred option for future residential development. However, this document currently carries little weight as it is only part way through the adoption process with a draft version for submission expected to be issued later this year with an examination next year.

Appraisal:-

The main considerations with regards to this application are:-

Principle of Development
Design, Layout and Mix
Access and Parking
Affordable Housing
Five Year Land Supply
Open Space Provision
Contributions.

Principle of Development

The application site lies outside the current settlement boundary of Ratby in an area designated as a green wedge under Policy NE3 and countryside under Policy NE5 of the Local Plan. Policy NE3 seeks to protect the open character of the green wedge and states that planning permission will only be granted for agriculture, forestry, sport and recreation, transport routes or mineral uses. While Policy NE5 seeks to protect the countryside for its own sake and states that planning permission will only be granted for development that is important to the local economy, for the change of use of existing buildings or for sport and recreation. The proposed residential development does not meet either of these criteria.

While the site is allocated as a preferred option for residential development in the Site Allocations document, as set out above, this is yet to be finalised and therefore carries little weight at this stage in its production. At this time, the Local Plan forms the lower tier of the development plan and therefore the proposal is contrary to both Policies NE3 and NE5.

Design, Layout and Mix

The layout of the scheme has evolved from the need to create a south-facing elevation for each dwelling for solar gain and maximising the output from the proposed solar thermal panels. This has created properties arranged in an east-west direction accessed from cul-de-sacs.

The scheme has been improved since the previous submission to arrange the 4-bed detached properties in the corner positions between the cul-de-sacs and Fielding Lane which incorporate some elements of a dual aspect design. Plots 8 and 9 have been positioned to provide a visual end stop to Fielding Lane.

Footpath R51 is proposed to be retained across the southern boundary of the site through an area of open space. The diversion of this footpath through the scheme to increase permeability has been suggested however the applicant is reluctant to do this due to the potential security implications of increased footpath connections.

The design of the dwellings themselves are unusual in appearance and will give the development a unique identity. They include large amounts of glazing to the southern elevation with sparser fenestration to the north. Shallow pitched green roofs are proposed with a centrally positioned projection incorporating a solar thermal panel and a clerestory to allow natural daylighting to the centre of the property.

The green roofs are intended to reduce the need to remove soil from the site and increase biodiversity while the solar panel will provide hot water for domestic use and for an underfloor heating system. The design, construction and orientation of the dwellings along with retention of ecological features on the site have been devised to achieve Level 5 of the Code for Sustainable Homes.

The design and layout is considered to draw some aspects from the earlier stages of the adjacent residential development in the form of two-storey dwellings predominantly arranged as semi-detached properties in cul-de-sacs. The unique individual property design does not reflect the design and style of earlier stages of development however it is considered that this scheme will be visually separated from earlier phases through the existing earth bunds. The change from traditional house design on Fielding Lane to these sustainable units will be staggered through the positioning of two bungalow units to the south of the application site which will introduce the proposed design before entering the main part of the application site.

Surrounding residential properties have been developed at various stages and are typical of times they have been constructed. While the type and scale of development has remained the same through each phase, each development is of its age and this pattern will be repeated through the proposed scheme. It is therefore considered that while concerns have been raised regarding the proposed layout and design the scheme is not considered refusible on these grounds.

The supported living apartments are positioned to the north of the site. The design and orientation of this block does not relate to the housing within the scheme as it fronts a proposed access from Groby Road which is not part of this scheme. It is proposed as a U shaped building incorporating two projecting wings. The ground floor includes communal areas and an office and accommodation for an onsite carer. The building design incorporates wall hung solar panels and a shallow pitched roof similar to the proposed housing however the design is more traditional with regularly spaced windows and French doors with a double height glazed front entrance.

The design of the block reflects its use and therefore the differences with the proposed residential properties are considered acceptable. The design of the proposed Doctors' Surgery and Nursery will need to relate to the design of this block.

In terms of mix, the scheme includes detached, semi detached properties, mobility bungalows and supported living flats on both market and affordable tenures. This is considered to adequately reflect the needs of the village and create a mixed community as set out in PPS3.

Access and Parking

The application proposes to extend Fielding Lane into the site with a pedestrian and cycle link extending to Groby Road. The Director of Highways, Transportation and Waste Management (Highways) has raised no objection to this approach subject to standard conditions.

Each dwelling is served by two car parking spaces in front of the property. Whilst supplementary planning guidance would require three spaces for the four-bedroomed properties it is considered that two spaces per dwelling is an adequate provision and consistent with PPG13. The application also proposes a cycle path and improvements to the nearest bus stop which will assist in encouraging occupiers to travel by methods other than private car. The landscaping condition will ensure that the front of the dwellings are not dominated by car parking spaces.

The 14 supported apartments are served by 16 spaces including two disabled spaces. Comments from the Director of Highways, Transportation and Waste Management (Highways) have requested that a further space is provided, this can be secured by condition.

The Highways Agency have raised no objection to this amended scheme with regards to an impact on the adjacent motorway.

Affordable Housing

The application proposes that the 14 supported flats are made available as affordable units with further information provided to demonstrate that a Registered Social Landlord is interested in taking on the building. In addition to this, the two mobility bungalows and a further four dwellings are proposed to be made available as shared equity properties. The exact affordable housing offer will need to be refined to take into account the net gain of dwellings which will result in 19 units being provided.

Whilst the Strategic Housing Market Assessment highlights a future need for supported housing for younger people, further details have been requested from the applicant to demonstrate that there is a specific need for supported housing at this time and in this location. Given the demand for standard affordable units, it is considered the need for specialised housing should be demonstrated to ensure the block does not stand empty. Further information on this issue will be presented as a late item.

Five Year Land Supply

Following the recent adoption of the Regional Spatial Strategy (RSS) the housing trajectory has now been updated to 2006, the start of the RSS period.

PPS 3 sets out that Local Authorities should identify and maintain a rolling 5-year supply of deliverable land for housing. In particular at paragraph 71 the PPS states 'where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites ... they should consider favourably planning applications for housing, having regard to the policies in this PPS including the considerations in Paragraph 69'. Paragraph 69 sets out the key criteria for considering applications including high quality design, mix, sustainability and efficient use of land.

The RSS sets the Borough a requirement of 450 dwellings per annum to be met from 2006 onwards. Taking into account existing permissions and developable sites within settlement boundaries (predominantly Urban Capacity sites) that have been provided this equates to a supply of 4 years and 9 months, 145 dwellings short of the required five year supply.

In this instance, PPS3 requires Planning Authorities to 'consider favourably' applications as set out above. This application site has been considered as part of the Strategic Housing Land Availability Assessment in 2008 which concluded the site is developable. As the site has been identified through the Site Allocations process it is included after year six in the current housing trajectory, approving the application now would bring forward these units to year three of the trajectory therefore reducing the shortfall in the five year supply.

It is therefore considered that approving this application will reduce the shortfall and assist in providing and maintaining a rolling five year supply of housing land as required by PPS3. This is considered to be a significant material consideration which overcomes the Local Plan based objection in principle to the development set out above.

Open Space Provision

The consultation response from the Head of Corporate and Scrutiny Services (Green Spaces) states that the proposed onsite informal space is not suitable for adoption as it is not overlooked by adjacent properties and therefore does not provide a safe play space. The proposed area is on the edge of the development and bound by an existing earth bund and proposed back garden fencing. A public footpath will run through the space as will a retained hedgerow. Other proposed informal open space within the site runs alongside the proposed cycleway and is long and narrow limiting its use for informal play.

The applicant has stated that these areas have been designed to provide wildlife havens adjacent to the hedgerows which would be maintained as strips of meadow planting. While it is considered that the retention of hedgerows is a positive aspect of the scheme and extending these areas as green corridors is supported these natural green spaces do not address the need for open space to be provided on the site which is available for play.

Given these concerns it is considered that the proposed on-site open space is unacceptable and therefore the applicant will need to contribute towards off-site open space provision and maintenance in accordance with the adopted Play and Open Space SPD. This will be achieved through the Section 106 agreement which will also include a clause to ensure the on site space is maintained by the applicant.

Contributions

Requests for contributions to be secured through a Section 106 agreement have been received from Leicestershire County Council as set out above. However, the access to the application site has resulted in four dwellings from a previous scheme being unable to be completed. The contributions therefore need to be calculated for the net gain of dwellings. The County Council have been reconsulted in light of this and these figures will be reported as a late item. However, the anticipated contributions based on the original responses are as follows:

Education - £4,692 per dwelling, £150,144 in total
Libraries - £2,500 in total
Civic Amenity - £793 in total
Primary Care Trust - £44,338 in total
Leicestershire Constabulary - £606 per dwelling, £27,876 in total.

A further contribution towards improvements to National Cycle Network Route 63 which links Ratby and Glenfield has been requested by Director of Highways, Transportation and Waste Management. The amount of this contribution is still being agreed between the applicant and the County and will be presented as a late item.

As set out above, the on site open space is considered unsuitable therefore a contribution for off site open space is required. The application site is within 400m of the informal and formal open space on Ferndale Drive. Contributions can therefore be sought in accordance with the adopted Play and Open Space Supplementary Planning Document 2008. Taking into account the net gain of dwellings and the reduced contribution for the supported living units and the bungalows, the total contribution for establishment and maintenance has been calculated as £77,179.

With the exception of the contribution to the cycle way which is yet to be agreed, the total contributions to be secured are £302,830. This is considered to address the concerns raised regarding the impact of the development on the infrastructure of the village and to accord with Policy IMP1 of the adopted Local Plan.

Other considerations

The Director of Community Services (Archaeology) has requested that a desk based assessment be carried out prior to determination. Discussions between the applicant and County Archaeologists are continuing with the intention to complete a geophysical assessment of the site with trial trenching prior to the determination of the application. The Director of Community Services (Archaeology) has confirmed that if this is not undertaken to their satisfaction before the application is due to be determined they will be seeking for the application to be refused. It is considered that the geophysical assessment and trial trenching could be completed within the determination period of the application and the applicant should be given the opportunity to address this. If the further information submitted is not to the satisfaction of County Archaeology then the application will be refused on these grounds.

Concerns raised regarding the impact on house prices are not a consideration relevant to this application. The impact of the road construction on neighbours and wildlife is considered to be temporary in nature and therefore not grounds for refusal of the scheme. The inclusion of physical barrier between Fielding Lane and Overfield Walk cannot be requested as it would block the public footpath.

Conclusion

While the proposal is considered contrary to Local Plan policies NE3 and NE5 the updated housing trajectory following the adoption of the Regional Spatial Strategy does not demonstrate a 5 year supply of housing as required by PPS3. As the site is considered to be deliverable and developable and would go some way to addressing the shortage this is considered to overcome to Local Plan policy objection to the principle of development on this site.

The design and layout of the proposal is unique and raises some concerns in terms of urban design due to its lack of permeability and the lack of incorporation of open space. However, the scheme does propose high levels of sustainability which will be independently assessed under the code for Sustainable Homes and is visually separated from surrounding residential developments by earth bunds.

Contributions are being secured to address the impact of the proposal on the infrastructure of the village and no objections have been raised by highways or the Highways Agency. It is therefore considered that subject to addressing the outstanding objection from the Director of Community Services (Archaeology), providing further information on the need for the proposed supporting living accommodation and the sealing of a Section 106 agreement that the application is acceptable.

RECOMMENDATION:- That subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 to provide contributions towards education, play and open space, libraries, civic amenity, the Primary Care Trust, the Police and the provision of affordable housing and subject to the removal of the objection relating to archaeology from the Director of Community Services, the Director of Community and Planning Services be granted powers to issue Planning Permission subject to the conditions below. Failure to complete the agreement by the 1st July 2009 may result in the application being refused:-

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 and national planning guidance, as summarised below, it is considered that subject to compliance with the conditions attached to this permission and the sealing of a legal agreement, the proposed development would be in acceptable as the layout and scale is in keeping with the character of the area, the development would not have a detrimental impact on the highway, the scheme has high sustainability standards and would meet a highlighted shortfall in housing supply.

SUMMARY OF DECISION - The proposal is in conformity with Policy/Policies BE1, REC2, REC3, RES3, RES5, T5, T9, NE2, NE12, IMP1 of the Hinckley and Bosworth Local Plan and PPS3. Planning permission is granted subject to conditions.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and apartments shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

- 3 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
 - (i) means of enclosure
 - (ii) hard surfacing materials
 - (iii) minor artefacts and structures (e.g. lighting, etc.)
 - (iv) planting plans
 - (v) written specifications
 - (vi) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
 - (vii) implementation programme.
- 4 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 5 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 6 Before the commencement of development, further details on the improvements to footpaths R51 and R54 should be submitted to and agreed in writing with the Local Planning Authority in conjunction with the Highways Authority. These details should include the surfacing of Footpath R51 to a width of 1.8 metres from Footpath R54 to the metalled surface at Overfield Walk and dropped kerbs where the footpath crosses Fielding Lane . The agreed details should be completed prior to the occupation of the last residential dwelling hereby approved.
- 7 Before the occupation of the last dwelling hereby approved, the shared footway / cycleway connecting Fielding Lane and Groby Road shall be completed as generally shown in the submitted details to the satisfaction of the Highway Authority.
- 8 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.
- 9 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.
- 10 No walls, planting or fences shall be erected or allowed to grow on the Highway boundary exceeding 0.9 metres in height above the level of the adjacent carriageway.
- 11 Before the first occupation of any dwelling hereby permitted, car parking provision shall be made within the curtilage of the dwelling as generally shown on plan AA15-15. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.
- 12 At the time of the occupation of each dwelling or supported living apartment 1 x travel pack and 2 x travel / bus passes shall be provided per dwelling / apartment.

- 13 Prior to first occupation of any building hereby approved, the bus stop at the junction of Fearndale Drive and Fielding Lane shall be improved in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority in conjunction with the Highway Authority.
- 14 Before the commencement of development, details of a vehicle barrier / gate to be positioned at the northern end of the car park serving the supported living apartments shall be submitted to and agreed in writing with the Local Planning Authority in conjunction with the Highways Authority. The agreed details should be completed prior to the occupation of the last residential dwelling hereby approved.
- 15 Notwithstanding the submitted details, 17No off street parking spaces shall be provided within the supported living apartment car park. The spaces shall be hard surfaced and marked out prior to the development being brought into use.
- 16 Before first occupation of any dwelling its access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the Highway boundary and shall be so maintained at all times.
- 17 Before first use of the development hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of every vehicular access with nothing within those splays higher than 0.6 metres above ground level, in accordance with the current standards of the Highway Authority and shall be so maintained in perpetuity.
- 18 Notwithstanding the submitted details, the shared private drive to the social care home car park shall be a minimum of 4.8 metres wide for at least the first 5 metres behind the Highway boundary and have 4 metres kerbed radii on the eastern side of its junction with the estate road. The access drive once provided shall be so maintained at all times.
- 19 Before the commencement of development, full details and the position of a suitable bin and recycling store and a cycle store shall be provided to and agreed in writing with the Local Planning Authority.
- 20 The development hereby permitted shall not be commenced until such time as a scheme to install trapped gullies has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be implemented as approved.
- 21 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.
- 22 There are public sewers which cross the site. No building shall be erected or trees planted within 3 metres of the public foul or surface water sewer. The applicant may wish to apply to Severn Trent Water to divert the sewer in accordance with Section 185 of the Water Industry Act 1991.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 3 To enhance the appearance of the development to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure the development is provided with satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 6 The footpath links are required for the safety of pedestrians and in the interests of providing a sustainable development which connects well with existing infrastructure to accord with Policy T9 of the adopted Hinckley and Bosworth Local Plan.
- 7 The footpath/cycleway links are required for the safety of pedestrians and in the interests of providing a sustainable development which connects well with existing infrastructure to accord with Policy T9 of the adopted Hinckley and Bosworth Local Plan.
- 8 To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 9 To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan
- 10 To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 11 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 12 To encourage forms of travel other than by private vehicle to accord with Planning Policy Guidance Note 13.
- 13 To improve access and information at the bus stop in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 14 In order to restrict any sort of through route for vehicles between Fielding Close and Groby Road to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 15 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

- 16 To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 17 In the interests of pedestrian safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 18 To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 19 To ensure storage for bins and cycles are provided in a suitable position and while maintaining visual amenity to accord with policies BE1 and T9 of the adopted Hinckley and Bosworth Local Plan.
- 20 To protect the water environment in accordance with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 21 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 22 To maintain essential access for maintenance, repair, renewal and to protect the structural integrity of the public sewerage system in accordance with Policy NE12 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 Your attention is drawn to the extensive notes to applicant contained within the comments from the Highways Authority dated the 28th April 2009.
- 6 The Environment Agency do not usually accept oversized pipework alone as a satisfactory SUDS system, because it does not offer any mitigation to reduction in water quality. However, we are aware that the system drains to a downstream balancing feature. It may be the case that minor modifications to the balancing pond to introduce specific storage for the first 5mm of rainfall would significantly improve the treatment regime and therefore satisfy the above (in conjunction with additional storage). Please contact Jonathan Vann on 0115 8463653 if you wish to discuss the above.
- 7 Please note the informatives contained within the consultation response from the Environment Agency dated 29th April 2009.

- 8 The landscaping scheme as required by condition 4 shall include the following details:-

How the front gardens will be treated to ensure that the parking is not dominant within the street

How the undefined spaces around the supported living apartments will be secured

How prominent boundaries within the street will be treated.

Contact Officer:- Philip Metcalfe Ext 5740

Item: 02

Reference: 09/00236/FUL

Applicant: Mr W Richardson

Location: 295 Main Street Thornton Coalville Leicestershire LE67 1AJ

Proposal: ERECTION OF ONE DWELLING

Introduction:-

This application seeks full planning permission for the erection of a detached two-storey dwelling located to the south east of 295 Main Street, Thornton.

The application site is located on the north-east side of Main Street and to the south west of No 301 Main Street which is positioned 26 metres behind the highway boundary. The street scene contains a mix of dwellings, including traditional red brick Victorian terraces, modern bungalows and rendered two storey properties. Dwellings are generally situated close to the back edge of the footpath however there are examples of development in depth. A stone wall forms a strong feature across the front boundary of the site which also appears to act as a retaining wall as the land level of the site is higher than that of the highway.

The two storey dwelling is proposed to be located to the north western side of the site and set 2.8m from the back edge of the highway. The proposed dwelling has a lower element to the north western side, and proposes no windows at first floor level on the rear, facing No. 301.

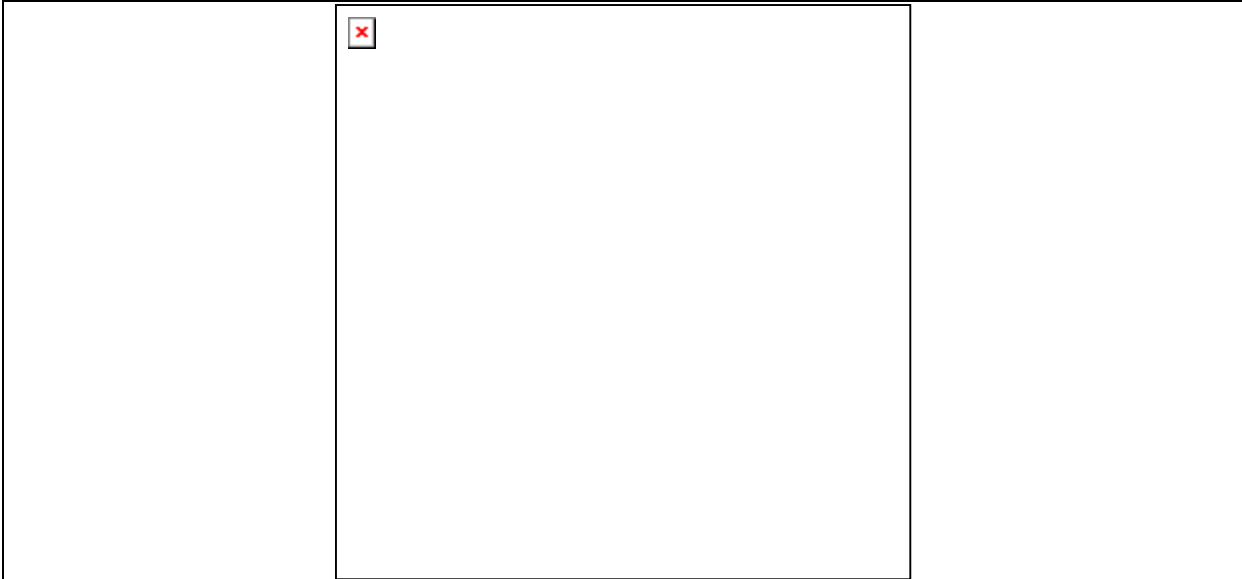
This application is a re-submission of a previously approved scheme which was granted planning permission in January 2008 (planning reference 07/01202/FUL), and an application that was withdrawn earlier this year (09/00057/FUL). The application site therefore has planning permission for a detached 3 bedroom dwelling with an attached garage. The previously approved scheme had one window serving a bathroom facing the neighbouring property of 301 Main Street and an overall height above ground floor level of 6.5 metres to the ridge.

Access was at the north western corner of the site serving a single attached garage accommodated under a lean-to roof. The current proposal is for a four bedroom property located in a similar position on the site, but with the garage replaced by a two storey element comprising study and utility at ground floor with a bedroom and bathroom above. Access from Main Street is now more centrally located on the frontage with parking and turning within the south eastern half of the site. The height of the building above ground floor level remains the same as previously approved.

A Design and Access Statement has been submitted in support of the application. This gives brief details of the recent planning history of the site, the characteristics of the site, the access, landscaping and appearance. It incorrectly states that the application is for the erection of a single house and garage, as the garage was negotiated out of the proposal following the withdrawal of the previous scheme. The statement proposes that 'the materials and building techniques will be sympathetic to other houses in this area.'

History:-

09/00057/FUL	Erection of one dwelling with garage	Withdrawn	24.02.09
07/01202/FUL	Erection of one dwelling (amended scheme)	Allowed	25.01.08
07/00854/FUL	Erection of one dwelling	Withdrawn	07.09.07
07/00410/FUL	Extensions and alterations to existing dwelling and garage (295 Main Street)	Approved	13.06.07



Consultations:-

No objection subject to conditions have been received from:-

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

Head of Environmental Services (Pollution) has commented that 'the applicant should be made aware that the site is within 250 metres of a historic landfill site and may therefore wish to consider gas protection measures in the design of the building'.

Neighbours were notified.

Three letters received, two objecting to the proposal and one in support. The objections are on the following grounds:-

- a) The number of planning applications now totals 5 and neighbours feel bullied and intimidated

- b) Incorrect and inconsistent information has been submitted, and as such it is impossible to fully assess the application
- c) The height is unacceptable especially with regard to 301 Main Street, Thornton
- d) The distance between the proposed dwelling and the adjacent properties is not shown. This should be at least 14 Metres.
- e) No site notice was erected and therefore the community has not had the chance to comment.

The letter of support indicates the proposal will improve the area by developing an area of wasteland.

At the time of writing the report comments have not been received from Bagworth and Thornton Parish Council.

Policy:-

Government Policy

Planning Policy Statement 1 – ‘Delivering Sustainable Development’ sets out the Governments overall aims for the planning system.

Planning Policy Statement 3 – ‘Housing’ sets out the national planning policy framework for delivering the governments housing objectives and reflects the governments commitment to improving affordability and supply of housing including rural areas. The Government also seeks to promote the development that seeks the most efficient and best use of land.

Regional Policy

East Midlands Regional Plan

Policy 2 promotes better design, including an approach which takes account of local character and materials, reduces CO2 emissions and makes the best use of land.

Policy 15 seeks to ensure that new housing in rural areas provides an appropriate mix of well designed homes.

Local Plan Policy

The proposal is located within the settlement boundary of Thornton as defined by the adopted Hinckley and Bosworth Local Plan.

Policy RES5- ‘Residential proposals on unallocated sites’ supports residential proposals on land not allocated within the local plan providing the site is within the settlement boundaries of villages and the siting design and layout does not conflict with other policies within the local plan.

Policy BE1- ‘Design and siting of development’ seeks to ensure a high standard of design in order to secure attractive development through allowing development which complements or enhances the character of the surrounding area with regard to the scale, layout, mass and design, ensures adequate highway visibility, and does not adversely affect the occupiers of neighbouring properties.

Policy T5- ‘Highway design and vehicle parking standards’ considers development in terms of the current edition of Leicestershire County Councils ‘Highway requirements for development’.

Policy REC3 – ‘New residential development- outdoor play space for children’ seeks a contribution towards informal play space to provide an appropriate level of facilities.

Supplementary Planning Guidance / Documents

Supplementary Planning documents on 'New Residential Development'- gives further guidance on standards of design and spaces this Authority expect to be met by new developments.

Appraisal:-

The main considerations with regards to this application are the principle of the development, the design and appearance of the proposal on the street scene, the impact on neighbouring properties and highway issues.

Principle of Development

The site is located within the Thornton settlement boundary where residential development is considered acceptable in principle. The site also benefits from a previous permission for one dwelling.

Design/Scale and appearance

Planning permission was granted in 2008 for one dwelling to be erected on the site. The application now under consideration has much the same footprint but the attached garage has been replaced with additional residential accommodation, resulting in additional mass at first floor level, on the north west side of the property. However this is screened from the neighbouring property to the north west by the garage and outbuildings which serves that dwelling. It is therefore considered that the additional accommodation at first floor level would not be overbearing on the properties to the north west and north east of the site.

The proposal is located 14.8m from the front elevation of 301 Main Street and 14.2m from the side elevation of Reservoir Farm. The proposal under consideration measures 6.5m from the damp proof course to the top of the ridge, the same as that previously approved. There is therefore no significant increase to the mass of the proposal from that currently approved to warrant a refusal of planning permission.

The new vehicular access proposes a break in the stone wall which is a strong feature in the street scene. However the stone wall leading up from the reservoir into the village is regularly broken by accesses and therefore it is not considered that a new access would be detrimental to the character of the street scene. The wall is also in need of maintenance and the development of the site could ensure the future maintenance of the wall.

The design and appearance of the proposal varies slightly from that previously approved, however it does retain features such as windows set within the eaves corbelling, brick soldier courses and a chimney. The appearance and design is considered acceptable given the different styles of properties in Main Street.

Impact on Neighbouring properties

There are no windows at first floor level in the rear elevation of the proposed dwelling facing No 301 Main Street. On the basis that the separation between the two properties will be in

excess of 14 metres and the proposed ground floor windows will be screened by boundary treatment, it is considered that adequate privacy and amenity will be maintained. Similarly, the distance between the side elevation of the proposed dwelling, which will include a bedroom window at first floor, and the side of Reservoir Farm, to the south east, which contains obscure glazed as well as no principle windows, is considered to be acceptable to meet privacy and amenity requirements.

Highway Issues

A new access is proposed to be located in the centre of the site. The County Highway Surveyor has no objection to the proposal subject to the applicant complying with conditions. It is therefore considered that the proposal would not result in a detriment to highway safety and therefore complies with Policy T5.

Financial Contributions

A financial contribution towards the provision and maintenance of informal public open space will be required to comply with Policy REC3 of the adopted Local Plan and the Council's Supplementary Planning Document on Play and Open Space Quantity/Accessibility Audit 2005. In this case a contribution of £1,250.80 would be used to improve the quality of facilities at the Main Street/Thornton Reservoir site.

In this instance the scale of the development did not warrant a site notice being erected. Furthermore all boundaries to the site have postal addresses and it was therefore possible to ensure that all neighbours were notified thereby fulfilling the statutory requirement. Bagworth and Thornton Parish Council were consulted who represent the views of the wider community.

Other Issues:

Objections have been received regarding the number of applications submitted for the site. The Local Authority cannot control the number of applications submitted for re-development of the same site. Other concerns have been raised regarding the content within the design and access statement. Whilst the design and access statement is a statutory document, permission is granted in accordance with the submitted plans and it is this element of the application that shows what is to be developed. However the agent has been requested to change the wording within the design and access statement to ensure that it correctly reflects the development proposed.

Conclusion

The application proposes no significant alterations to the previously approved scheme, reference 07/01202/FUL. The changes proposed are not considered to detrimentally affect the appearance of the street scene or the amenities of surrounding residents. The location of the access would not result in a danger to users of the highway and enough off street parking is provided for the proposed dwelling. The proposal is therefore considered to be acceptable.

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 by virtue of the design, siting and access would not significantly affect

detrimentally the amenities of the neighbouring residents, the street scene or highway safety and is therefore considered to be in accordance with the development plan.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, RES5, NE12, REC3 and T5

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 3 The development hereby permitted shall not commence before the provision and maintenance of off-site open space or facilities whether by off-site physical provision or financial contributions as required in accordance with policy REC3 of the adopted Hinckley and Bosworth Local Plan and the approved Play and Open Space Guide has been secured in such a manner as is approved in writing by the Local Planning Authority.
- 4 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
 - (i) proposed finished levels or contours
 - (ii) means of enclosure
 - (iii) hard surfacing materials
 - (iv) planting plans
 - (v) implementation programme
- 5 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 6 No gates shall be erected to the vehicular access.
- 7 No walls, planing or fences shall be erected or allowed to grow on the highway boundary exceeding 0.9 metres in height above the level of the adjacent carriageway.
- 8 The gradient of the access drive shall not exceed 1:12 for the first 5 metres behind the highway boundary.
- 9 The car parking and turning facilities shown within the curtilage of the dwelling shall be provided before the dwelling is first occupied and shall thereafter permanently remain available for such use.
- 10 Before first occupation of the dwelling hereby permitted, its access drive and any turning space shall be surfaced with a 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.
- 11 Before first occupation of the dwelling hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the highway boundary on both sides

of the access with nothing within those splays higher than 0.6 metres above ground level and shall be so maintained in perpetuity, where in the control of the applicant.

- 12 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A, B, C and E shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.
- 13 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 3 To ensure the provision of Play and Open Space to accord with policy REC3 of the adopted Hinckley and Bosworth Local Plan.
- 4 & 5 To ensure that the works is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley and Bosworth Local Plan.
- 6 In the interest of road safety to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 7 To afford adequate viability at the access to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety to accord with Policy T5.
- 8 To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety to accord with policy T5.
- 9 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 10 To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in accordance with Policy T5 of the Hinckley and Bosworth Local Plan.
- 11 To ensure that an adequate line of vision is available in the interests of road safety to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 12 To ensure that the development is not detrimental to the privacy and amenity of the neighbouring property to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.

- 13 To safeguard amenities of neighbouring properties 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 List of plans used in the determination of this application:-
Site Plan, LPA-01, LPA-02
- 6 Condition 2 refers to materials. The applicant is advised that the use of natural materials will be requested by the Local Planning Authority.
- 7 Condition 3 refers to play and open space contribution. In this instance a contribution of £1250.80 is required towards the provision and maintenance of off-site Public Open Space.

Contact Officer:- Sarah Humphries Ext 5680

Item: 03

Reference: 09/00297/FUL

Applicant: Mr C. Whitfield

Location: Knoll Farm Forest Road Markfield Leicestershire LE67 9UN

Proposal: ERECTION OF RESIDENTIAL CHALET

Introduction:-

This application seeks planning permission for the erection of a chalet within the domestic curtilage of Knoll Farm, for the accommodation of the current owners of the site. The applicant's son would continue to live at the existing property.


Knoll farm is located to the west of the centre of Markfield, on the edge of the settlement boundary. It is no longer a working farm. The land slopes up from the south to the north. The existing dwelling to Knoll farm is located to the north of the site with outbuildings located to the south west of the main dwelling. The residential curtilage of the dwelling is located to the east and south of the dwelling and forms a series of terraces with areas of planting, pond and other landscaped areas. It is proposed to site the chalet structure on one of the terraced

areas to the south of the dwelling which currently comprises of a slabbed area containing a greenhouse, shed and touring caravan. Below the terrace is a pond and formal gardens before a paddock separates the residential curtilage from Forest Road.

A design and access statement has been submitted in support of the application setting the site in context, outlining why the building is required to meet the needs of the existing occupiers of the property and the application within the context of national, regional and local planning policy.

History:-

09/00133/FUL	Erection of Chalet for residential dwelling	Withdrawn	15.04.09
82/00618/4	Extensions and alterations to dwelling	Approved	04.08.82

		
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Consultations:-

Director of Community Services (Ecology) has requested that a protected species survey be submitted covering newts as there are ponds within the vicinity of the site.

No objection subject to conditions have been received from:-

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

Site notice and Press notice were displayed and neighbours notified.

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

- a) potential disturbance on edge of Markfield village and the development potentially giving rise to further permissions being given for further constructions of more properties in this area
- b) vehicle parking along Forest Road is perceived as a hazard
- c) existing boundary/ tree hedge line must be retained
- d) permission should be for the personal use of the owners of Knoll Farm.

At the time of writing the report comments have not been received from Markfield Parish Council.

Policy:-

Government Policy

Planning Policy Statement 1 – ‘Delivering Sustainable Development’ sets out the Governments overall aims for the planning system.

Planning Policy Statement 3 – ‘Housing’ sets out the national planning policy framework for delivering the Governments housing objectives and reflects the government’s commitment to improving affordability and supply of housing in all areas including rural. The Government also encourages development that seeks the most efficient and best use of land.

Planning Policy Statement 7- Sustainable Development in rural areas, sets out the governments objectives and how the planning system will help deliver this in rural areas.

Regional Policy

East Midlands Regional Plan

Policy 2 promotes better design, including an approach which takes account of local character and materials, reduces CO2 emissions and makes the best use of land.

Policy 15 seeks to ensure that new housing in rural areas provides an appropriate mix of well designed homes.

Local Policy

The application site is located outside Markfield settlement boundary, but within the Leicestershire Improvement Area and the National Forest as defined within the adopted Hinckley and Bosworth Local Plan.

Policy RES5- ‘Residential proposals on unallocated sites’ supports residential proposals on land not allocated within the local plan providing the site is within the boundaries of an urban area and the siting design and layout providing there is no conflict with other policies within the local plan.

Policy BE1- ‘Design and siting of development’ seeks to ensure a high standard of design in order to secure attractive development through allowing development which complements or enhances the character of the surrounding area with regard to the scale, layout, mass and design, ensuring adequate highway visibility, and not adversely affecting the occupiers of neighbouring properties.

Policy T5- ‘Highway design and vehicle parking standards’ considers development in terms of the current edition of Leicestershire County Councils ‘Highway requirements for development’.

Policy REC3 – ‘New residential development- outdoor play space for children’ seeks a contribution towards informal play space to provide an appropriate level of facilities.

Appraisal:-

The main considerations with regards to this application are the principle of development, the design and appearance of the proposal, effect on the amenities of neighbouring residents and the character and appearance of the countryside.

Principle

The existing property, Knoll Farm, is located within the settlement boundary for Markfield, as identified in the adopted Hinckley and Bosworth Local Plan. However, the majority of its residential curtilage, including the landscaped garden and outbuildings as well as the application site, lie outside. In such locations there is a presumption against new residential development. Unless there is a justified need in connection with agriculture, forestry, etc or if there are overriding other material planning considerations specific to the proposal which outweigh the policy objection.

Personal circumstances

The applicants have lived at Knoll Farm, a two-bedroomed dwelling for the last twenty-five years. Declining mobility makes the different levels in the property difficult to manage. They want to erect single level accommodation to enable them to stay at their home within proximity of their son and family, but with accommodation suited to their mobility needs. Within the design and access statement it is stated that the proposal would enable both the applicants and their son to maintain a degree of independence whilst being close enough for further assistance in the future should the applicants require more support.

Under the permitted development rights enjoyed by the property a structure of similar size and mass could be erected without planning permission, providing its use was ancillary to that of the dwelling. The proposed structure is not designed to be permanent and could be removed easily and the land reinstated.

The applicants have stated that they are willing for the application to be granted as a personal permission for themselves, so that the structure will be removed once they no longer live there.

Various alternative locations for accommodation within the Knoll Farm curtilage have been assessed but rejected on operational, engineering or visual intrusion grounds.

Character and appearance of the Countryside

The proposal chalet would be located within the existing residential curtilage of Knoll Farm, which has a well defined residential character, distinguishable from the paddock land to the south and west of the site. There are several structures ancillary to the dwelling on the site including a green house, shed and touring caravan. The application does not propose to extend the residential curtilage into the countryside. The proposal would not alter or change the character of the land on which it is to be sited nor that of the area of the application site. The site is considerably, screened by mature hedgerows and other vegetation and given its peripheral location on the edge of the settlement, it is not considered that there would be any impact on views into or out of the village. With the presence of sheds and other out buildings on the application site already, the provision of a chalet in this location will not be visually extending development into the countryside.

The countryside is protected under policy NE5 for its own sake. Whilst land outside the settlement boundary is considered to be within the countryside, in this particular instance there would be no demonstrable harm to the character of the countryside which Policy NE5

and RES5 seeks to protect. The location right on the edge of the settlement boundary and within a well established residential garden setting are further factors.

Amenities of Neighbouring Residents

The nearest properties to the site are located to the east with Knoll Farm located 17m to the north. The proposed chalet would be sited at a level approximately 2m below that of the existing dwelling. This difference in levels prevents overlooking between the existing dwelling and the proposed chalet.

Substantial tree screening to the east of the site prevents views between Hillside Cottage and the proposed chalet. Again due to the land levels the proposal is below the level of the nearest properties which would mitigate any overlooking even if the screening were not present.

The proposed chalet would not detrimentally affect the amenities presently enjoyed by nearby residents.

Design of the Proposed Structure

The design is determined by the manufacturer's specifications and comes ready assembled to site. It will also enable easy decommissioning when not required. Whilst in normal circumstances a temporary chalet style of building might not be appropriate in an established residential area. This site is well screened from public and private vantage points and there is an existing chalet development to the east, so this type of development is not unusual in the area. In these circumstances it is considered that the design and appearance are acceptable and appropriate for a temporary period.

Other Issues

The chalet would be sited on a level terraced area already slabbed and landscaped. The proposal would require little disturbance to the ground and would be delivered rather than erected. Given these circumstances it is considered it would be unreasonable on the developer to require a protected species report.

Conclusion

Whilst the proposal is strictly contrary to policies NE5 and RES5, of the Local Plan it is considered that the personal circumstances surrounding the need for the structure to enable the applicants to live and be cared for within close proximity of their family, the location of the chalet within the well established residential curtilage of the existing property, on the immediate edge of the settlement boundary together with substantial screening are sufficient to outweigh the policies in this instance. In addition the proposal would not detrimentally affect the character of the countryside nor the amenities of neighbouring properties. It is therefore recommended that the application be approved.

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 due to the personal circumstances of the applicants, and the siting of the chalet adjacent to the settlement boundary and within an existing residential curtilage, the proposal would not harm the character of the countryside nor detrimentally affect the amenities of

neighbouring properties and therefore it is considered to outweigh policies NE5 and RES5 in this instance.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, NE5, RES5, T5

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 Before any development commences, representative samples of the colour of materials to be used on the external elevations of the proposed chalet shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 3 When the development hereby permitted ceases to be occupied by Mr and Mrs C Whitfield, the chalet and any appurtenances shall be removed from the site.
- 4 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the Highway Boundary and shall be hung so as to open inwards only.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 3 The special circumstances of the applicant and the particular circumstances of the siting of the development in this instance render the application acceptable and in accordance with Policy BE1, of the Hinckley and Bosworth Local Plan.
- 4 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 on the highway to accord with policy T5.

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 Any new access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water

dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet, which in this case could be the existing pond. Clean surface water (ie. roof water) should be discharged to a soakaway, a ditch or a pond. It should not be discharged to foul or combined public sewer.

- 6 List of plans used in the determination of this application:- location plan, 1481/1, 1481/2, 2415
- 7 The proposal is situated in excess of 45m 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 2005. The highway boundary is the wall/hedge/fence etc fronting the premises and not the edge of the carriageway/ road.

Contact Officer:- Sarah Humphries Ext 5680

Item: 04

Reference: 09/00300/FUL

Applicant: The Crown Estate

Location: 1 – 3 Burton Road Twycross Atherstone Leicestershire CV9 3PR

Proposal: DEMOLITION OF NUMBERS ONE AND THREE BURTON ROAD AND ERECTION OF FOUR TERRACE DWELLINGS WITH PARKING AND AMENITY SPACE

Introduction:-

This application seeks full planning permission for the demolition of nos.1 and 3 Burton Road and the construction of a terrace of four dwellings with car parking to the rear. Nos.1 and 3 are a pair of semi detached 1 1/2 storey cottages that were originally 17th Century workers' cottages. However they have been altered significantly in the 19th and 20th Centuries. The replacement dwellings are of conventional 2 storey design of brick and tile construction with prominent gables and elevational detailing. This is a revised application following the withdrawal of a similar application in 2008. The application was withdrawn to allow a historic building survey to be carried out and access problems to be resolved.

Nos. 1 and 3 Burton Road are a pair of semi detached 1½ storey cottages that have been somewhat altered over the years, through alterations to the roof and ground floor extensions. Both properties are currently unoccupied and have been boarded up for some time. The cottages are screened from Burton Road by a mature deciduous hedge and vehicle access is obtained from the open area to the front of the village hall.

A design and access statement detailing the design influences relevant to the proposal, a historic building survey and phase 1 habitat survey accompanies the application. The historic building survey confirms that the existing cottages are of a significant age. However through a series of modifications the historic fabric has been extensively removed or damaged. The habitat survey confirms that there are no protected species identified. However, precautions should be exercised during any construction, particularly in respect of nesting birds.

Amended plans have been received revising the design of the proposed dwellings and these plans are subject to re-consultation.

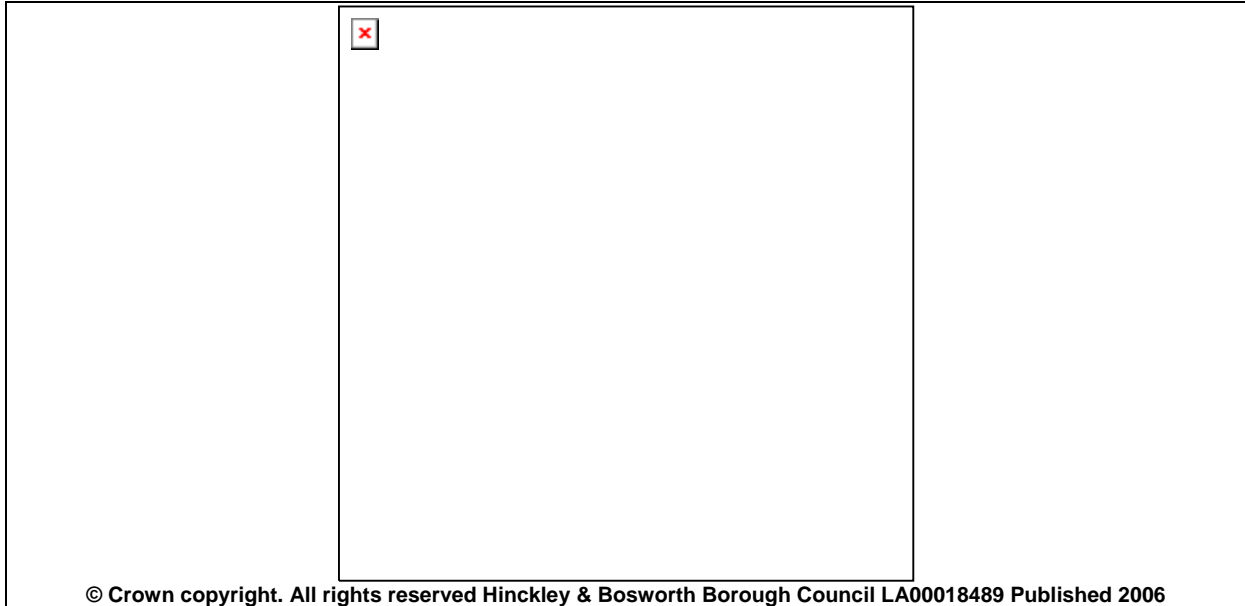
History:-

08/00900/FUL

Demolition of nos.1 and 3 Burton Road
and erection of four terraced houses with
parking and amenity space

Withdrawn

28.11.08



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).

Site notice 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
Head of Community Services (Land Drainage).

One neighbour letter received objecting on the grounds that the existing cottages should be restored as they are part of the history of Twycross.

Policy:-

Policy RES5 supports new residential development on unallocated sites providing the site lies within the defined settlement boundary and the siting and design does not conflict with other relevant policies.

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 within the County Councils design guidance Highways Transport and Development.

The Councils Adopted Supplementary Planning Guidance on New Residential Development advises of a series of design standards that all new development should seek to achieve.

Appraisal:-

The main considerations with regards to this application are the principle for the demolition of the existing cottages and their replacement, the siting and design of the replacement dwellings, the access arrangements and highway safety and the impact on residential amenity of nearby dwellings.

The Principle of Development

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

Following a consultation response from the earlier application it was suggested that the cottages were older than they appeared and that further investigation should be carried out to ascertain the true origin. To appropriately investigate this claim, the applicant withdrew the application and commissioned a historic building survey of the cottages. The survey's findings have been subject to pre-application discussion with the Conservation Officer. Whilst the loss of any historic building is a material planning consideration, the only option available to the Local Planning Authority is to consider whether the building is worthy of putting forward for listing. However, the cottages have been so severely altered previously that there is little special historic fabric remaining. Accordingly, there is no sound planning justification to seek to retain these dwellings. The fact remains however, that any replacement should be of a high quality that maintains the character of the village and the pattern of development in the locality.

Siting and Design

The terraced arrangement of the proposed dwellings does not reinstate the siting or form of the existing cottages but does provide a form of development that is evident elsewhere in the village. The set-back terraced arrangement allows for the roadside hedgerow to be retained and the dwellings to create their own character and setting beyond this. The set back naturally allows for a sensible degree of separation from Burton Road (A444) which is a busy road. The orientation of the terrace and its staggered form is such that it will be clearly visible from Burton Road when both entering and leaving the village and forms a line of development that naturally links with the line of the existing buildings within the street.

The shape, mass, form and overall design of the dwellings have been created to reflect the character of Twycross. The use of steep roof pitches, dominant gables, ridge and elevation detailing, heavy chimney stacks and strong fenestration detailing, whilst creating a

compatible and recognisable design style locally, results in a dominant form of development in respect of the adjacent almshouses by way of its similar design. To address this concern, the applicant's agent has provided an amended design for the street facing elevation. This maintains the mass, form and siting but removes the very dominant steep pitched gables that echo the adjacent Almshouses. The amended scheme maintains the proposed use of a mix of render, brick and tile, a crisp and contemporary feel is added to these proposed dwellings. Careful thought has been given to creating a high quality and attractive development but also providing a built form that sits well with this prominent edge of village location.

Reconsultation has taken place on the amended design and any responses will be reported as a late item.

The proposed access driveway, car parking spaces and garaging is all located to the rear of the site. This prevents the creation of a car-dominated frontage and scores highly in urban design terms. Furthermore, it means there will be no need for the removal of the roadside hedgerow, which defines the site's frontage and softens the appearance of the development.

Access and Highway Safety

The earlier application was withdrawn because it did not include land, which abutted Burton Road and therefore failed to demonstrate that the site had adequate vehicular access to Burton Road. The access position proposed in the current application remains in the same position but includes the area of land in front of the village hall. The applicant does not own this piece of land and the land is not registered with the Land Registry, but the applicant does have a historic legal right of access across it for the existing cottages. The application is accompanied by a notice served under Article 6 to address this matter. For the avoidance of doubt the fact that the applicant does not own this land is not material in the determination of this application. It is the responsibility of the applicant and any subsequent owner that they are satisfied that access to the highway exists thereafter. The creation of the access will be subject to a planning condition, requiring it to be in place before the first occupation of any dwelling.

Impact on Residential Amenity

The proposed dwellings are sited to ensure there is adequate privacy between them and adjacent dwellings. The separation distances normally required for such developments are generally achieved and there are no material reasons identified that would suggest the proposal would have an adverse affect on the amenities of neighbours.

The position of the access driveway and parking spaces to the rear are sited within close proximity to the neighbouring dwellings on Hallfield Close, however the vehicular access point into the site is in the same position as the existing vehicular access to the cottages. The applicants have already confirmed their intention to appropriately surface the driveway and manoeuvring spaces to cut down on any unnecessary noise. A mature native hedge and a number of native trees currently define the sites southwest boundary. The application confirms that this hedgerow will be retained to maintain the existing arrangement; however it may be necessary to erect a close-boarded fence within the application site to provide adequate privacy during the winter period.

Other Matters

The site lies within 400 metres of the Orton Lane playing field and therefore the sum of £1250.80p for each additional dwelling proposed is requested for the ongoing provision and maintenance of the facility in line with the increase pressures this development will place upon it.

Conclusion

This application proposes the erection of four high quality and well designed dwellings in place of two existing historic but somewhat altered and poor quality cottages. The loss of the existing cottages is unfortunate; however there is no formal basis under which the retention would be successful. The replacement dwellings are well sited to not result in an adverse impact on the amenities experienced by others and will be a prominent and attractive development that will complement the entrance to the village.

RECOMMENDATION:- That subject to the expiry of the statutory consultation period, the Director of Community and Planning Services be granted powers to grant planning permission, subject to the following conditions, for the reasons 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 and would not be to the detriment of the character of the area, residential amenities or highway safety.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, RES5, T5 and SPG on New Residential Development

- 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 5656.02E and 5656.03A received by the Local Planning Authority on 19 May 2009.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
 - (i) means of enclosure and boundary treatments
 - (ii) car parking layouts
 - (iii) other vehicle and pedestrian accesses
 - (iv) hard surfacing materials (inc vehicular access, turning and parking areas)
 - (v) all existing trees to be retained and proposals for restoration, where relevant
 - (vi) planting plans
 - (vii) written specifications
 - (viii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
 - (ix) implementation programme.
- 5 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

- 6 Before any development is commenced on the site, including site works of any description, the hedgerow to the site frontage and the trees on the site's southern boundary, as shown to be retained on the approved plan, shall be securely fenced off by protective fencing on a scaffolding framework in accordance with B. S. 5837 for the duration of all work on site.
- 7 No development shall commence until details (including construction methods, materials and technologies to mitigate any impact) of the construction of the driveway adjacent to the tree shown to be retained in the approved plan have been submitted to an approved in writing by the Local Planning Authority. The development shall then proceed in accordance with the approved details only.
- 8 The development hereby permitted shall not commence before the provision and maintenance of off-site open space or facilities whether by off-site physical provision or financial contributions as required in accordance with policy REC3 of the adopted Hinckley and Bosworth Local Plan and the approved Play and Open Space Supplementary Planning Document has been secured in such a manner as is approved in writing by the Local Planning Authority.
- 9 Before the first occupation of any dwelling hereby permitted the vehicular access, turning and parking areas as shown on the approved plan shall be laid out and made available for use and remain available for the respective use thereafter.
- 10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A, B, C, D and E shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To 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.
- 4-6 To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 7 To ensure the root system of the tree is not adversely affected by the driveway and its construction, in accordance with the intentions of Policy BE1 of the Adopted Hinckley and Bosworth Local Plan.
- 8 To ensure the adequate provision of public play and open space within the vicinity of the site to accord with policy REC3 of the adopted Hinckley and Bosworth Local Plan and the Adopted Supplementary Planning Document on Play and Open Space.
- 9 To ensure that vehicles may enter and leave the site in a forward direction, turn and park clear of the public highway, in the interests of road safety to accord with policies BE1 and T5 of the Hinckley and Bosworth Local Plan.

- 10 To safeguard the amenities of adjacent occupiers and the character of the area, in accordance with the requirements of Policy BE1 of the Adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 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 current play and open space contribution required by condition no.8 is £1250.80p per dwelling.

Contact Officer:- James Hicks Ext 5762

Item: 05

Reference: 09/00323/FUL

Applicant: Mr Arek Kulakowski

Location: Broomhills Farm Desford Lane Peckleton Leicester Leicestershire

Proposal: REMOVAL OF ONE BARN AND CONVERSION OF EXISTING BARN INTO TWO DWELLINGS AND GARAGE/STORE.

Introduction:-

This application seeks full planning permission for the conversion of three redundant brick and tile agricultural barns to 2 x three bedroomed dwellings and a garage/store together with associated parking and landscaping and includes the demolition of a larger barn of metal/cement fibre sheet construction.

The site measures 0.3 hectares, situated in the countryside midway between the villages of Peckleton to the south and Desford to the north in an isolated position surrounded by open fields. The former farm complex consists of a rendered two-storey farmhouse with a residential curtilage to the west and north. In addition, there is a single storey range of brick and tile outbuildings, a larger two-storey brick and tile threshing barn and a very small 1½ storey brick barn with corrugated sheet roof arranged around a courtyard. There is a much larger agricultural building of corrugated metal and cement roof sheet construction to be removed as part of the development. This building is attached to the smallest of the barns by a link of blockwork and cement sheet construction, which, would also be demolished. The complex is screened from the east and partly from the north by a row of 6 metre high conifer trees, the remainder of the northern boundary and the western boundary is defined by a 2

metre high hedge. A post and rail timber fence defines the southern boundary of the site. Access to the complex is from Peckleton along Desford Lane and then via a private farm track.

A Design and Access Statement, Structural Assessment, Timber Report, Structural Method Statement, Appraisal of Alternative Uses Report and a Protected Species Report have been submitted in support of the application. The Design and Access Statement advises that the buildings are no longer required for agriculture and are inappropriate for modern agricultural use. The architectural and historic merits of the buildings, that have been part of the landscape from around the early 1780s, warrant their retention and restoration. No major reconstruction, alteration or extension to the buildings is required to make them suitable for conversion. Although a few new openings are to be introduced including non-reflective conservation style velux roof lights, the positioning and use of existing windows and doorways and the dual aspect of the buildings provides suitable accommodation with each room having a natural light source. Parking areas are contained within the courtyard to limit any impact on the visual appearance and character of the surrounding area. The scheme will cause no harm in highway terms. The boundaries of the site are well defined and will retain the character and setting of the farmyard and limit any impact on the character or appearance of the countryside. The removal of an unsympathetic modern barn and additional planting to the southern part of the site will enhance the visual aspect of the site and the surrounding landscape. The statement also concludes that a sympathetic residential conversion provides an attractive reuse of these buildings and will safeguard their historic value in a practical manner.

The Structural Survey (carried out in February 2008) identifies multiple faults in the external fabric of all of the units but concludes that having considered the overall condition of the existing units they can be successfully converted and repaired without the need for undertaking substantial areas of rebuilding. It further concludes that should the structures be left unattended their condition will deteriorate to such an extent that large scale disruption will inevitably occur resulting in the need for large scale reconstruction. The report recommends that, for all units a specialist timber survey be undertaken, that foundations should be inspected and that all roof coverings will require removal, storage and replacement. The Structural Method Statement has been submitted to provide more detail in respect of the extent of the replacement and repair works required of the various structural elements and how these will be carried out. The Timber Report confirms that overall the timbers are in good condition but will require cleaning and spray treatment to protect against infestation.

The Appraisal of Alternative Uses Report concludes that the most viable uses, from an occupational point of view, for the barns would be either office or residential use but that a residential refurbishment would be the only financially viable alternative and would also enhance the setting of the existing dwelling. In dismissing other uses such as warehousing, light industrial, leisure, tourism and childcare the appraisal raises concerns in respect of the potential detrimental impact on the residential amenities of the existing farmhouse, the sites remote location and limited mains services and the limited floor space and height of the buildings.

The Protected Species Report was carried out in December 2007 and is now somewhat out of date. However, it concludes that with evidence of use by any species of bat being limited to foraging and occasional feeding perches whilst foraging, the proposed development would have little negative impact on bats, and would provide an opportunity for bat bricks to be incorporated into the larger barn to provide future habitat. There was some evidence of ingress by birds for nesting but the redevelopment of the site would have little negative impact on nesting birds.

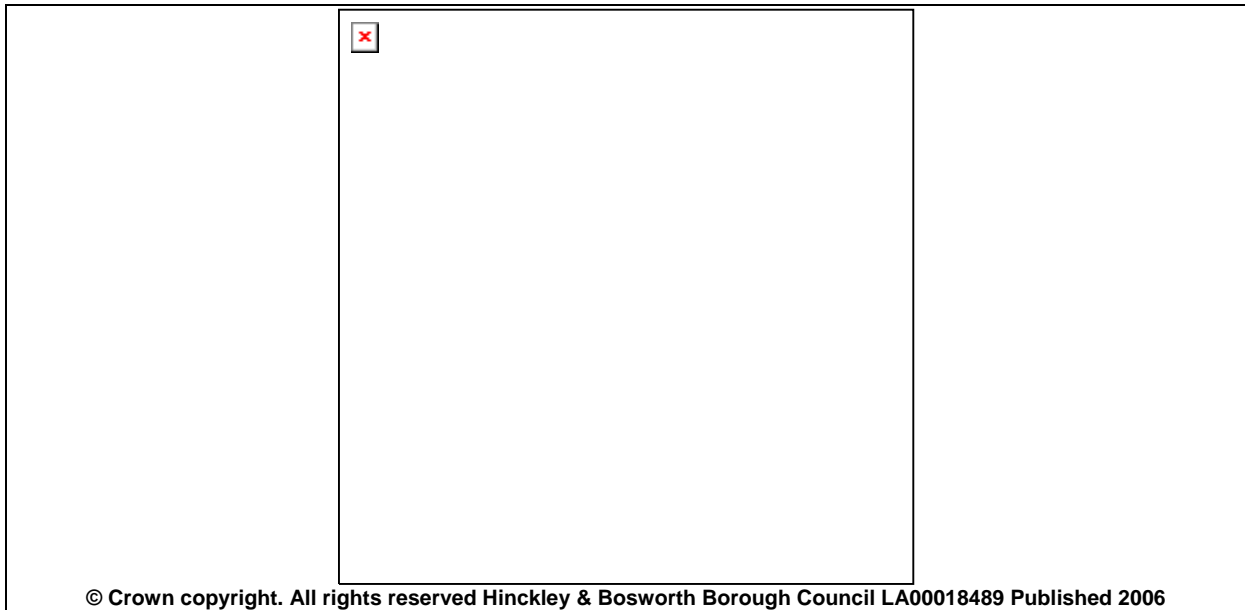
History:-

08/00672/FUL

Removal of One Barn and Conversion of Existing Barns into Three Dwellings

Withdrawn

20.08.08



Consultations:-

No objection subject to conditions have been received from:-

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

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

Director of Highways, Transportation and Waste Management (Highways)
Director of Community Services (Archaeology)
Director of Community Services (Ecology)
Environment Agency
Severn Trent Limited
Peckleton Parish Council
Site notice
Neighbours.

Policy:-

Central Government Guidance

Planning Policy Statement 7 (PPS7) 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.

Planning Policy Statement 9 (PPS9) Biodiversity and Geological Conservation sets out planning policies on protection of biodiversity conservation through the planning system. paragraph 1 (vi) states that the aim of planning decisions should be to prevent harm to biodiversity conservation interests and where this cannot be reasonably avoided, adequate mitigation measures should be put in place.

Local Plan Policy

The site lies in the countryside as defined in the adopted 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. Development should complement or enhance the character of the surrounding area with regard to scale, layout, design, materials and architectural features; incorporate landscaping to a high standard; ensure adequate highway visibility for road users and adequate provision for parking together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

Policy BE20 states that in the countryside planning permission will be granted for the re-use and adaptation of rural buildings unless: the proposed use has an adverse effect on the appearance or character of the landscape; the building is in a structurally unsound condition and is thus incapable of conversion without significant adaptation and rebuilding; the proposals are detrimental to the design, character, appearance and setting of the building; the conversion involves extensions that would significantly alter the form and general design of the building in a way which would detract from its existing character and appearance; the proposal would adversely affect highway safety or any protected wildlife habitat.

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 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 NE2 states that planning permission will not be granted for development which would be likely to suffer material harm from potential sources of soil pollution. Policy NE14 requires satisfactory arrangements to be made for the disposal of foul sewage and surface water to protect groundwater resources and ecology. Policy BE16 requires satisfactory archaeological investigation and recording to be carried out before development commences on sites of archaeological interest.

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.

Supplementary Planning Guidance

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 for commercial and industrial purposes: reducing the need for new buildings; avoiding vacant buildings becoming prone to vandalism and dereliction; and providing employment. It states that residential re-use may not be considered favourably unless the applicant has first considered a commercial type use for the buildings or there are significant overriding material planning considerations that would make business uses undesirable. 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:-

The main considerations with regard to this application are; the principle of development; the structural condition of the buildings and their suitability for residential conversion; the impact of the development on the character and appearance of the countryside; the accessibility of the development and its impact on highway safety.

Principle of Development

Both government guidance and local plan policy support the re-use of redundant agricultural buildings in the countryside and conversion for residential purposes can be acceptable subject to certain criteria being satisfied. A commercial, industrial or recreational use would normally be encouraged in the first instance rather than a residential use. In this case the applicant has submitted an appraisal of a number of alternative uses for the buildings including warehousing, light industry, offices, childcare, leisure and residential uses. The appraisal, not unreasonably, discounts warehousing, light industry, childcare and leisure uses after taking into account the design of the buildings and potential floor space provided, limited mains services, the potential impact of the uses on the amenities of the existing residential unit and the isolated location of the site and access to it. Offices and residential uses are considered to offer the most suitable solution in terms of these considerations. The appraisal goes on to provide estimated costs in relation to converting the buildings to office use along with estimated income potential from such a use and concludes as a result that conversion to offices would be financially unviable. A residential use would therefore appear to be the only financially viable alternative use that would secure the long term future of the buildings, which have some historic value, and prevent further deterioration in their fabric and structural integrity.

Structural Condition and Suitability for Conversion

The Structural Survey carried out in February 2008 has been supplemented by an additional Structural Method Statement submitted to provide more information and details in respect of the repair and upgrading sequences to be carried out on the various units to enable a more accurate assessment to be made of the extent of repair or replacement necessary for a successful conversion to residential use. The method statement includes underpinning works where necessary, localised rebuilding, stitch repair of brick fractures and replacement of spalled brickwork and individual defective timbers.

The Borough Council's Building Control Section have considered the contents of the reports and confirm that, subject to compliance with the information and details provided, in structural terms the buildings are capable of being converted to a residential use without the need for significant additional rebuilding of the external structure. The introduction of a first floor into Unit 1 would improve the structural integrity of this building.

The proposed conversion scheme would not include any extension to the existing structure of the buildings and for the most part would utilise existing openings to provide the required doors and windows. A small number of new openings, including the use of small non-reflective conservation type roof lights are proposed to provide improved amenity for future occupiers, but these would not have any significantly adverse effect on the overall character or appearance of the buildings. The reuse of the small barn for garaging and storage purposes ancillary to the existing dwelling would comply with guidance provided in the Council's SPG on the Conversion of Rural Buildings. Conditions in respect of window and door details are included in the recommendation to provide control over the detail of the scheme and ensure that the rural character and appearance of the buildings is retained as far as possible.

Impact on the Character and Appearance of the Countryside

The former farm complex occupies an isolated location and is surrounded by open agricultural fields. The complex is currently well screened from the surrounding countryside by existing mature trees and hedgerows which provide a strong boundary to the site, particularly to the east, north and west. The conversion of the barns and the creation of any residential curtilage to Units 1 and 2 adjacent to the northern boundary would therefore have a very limited impact on the rural character and appearance of the surrounding countryside unless the existing screening was removed or significantly reduced by any future occupiers. Additional planting of native trees is proposed to the southern part of the site. This additional landscaping together with the demolition and removal of the existing large agricultural barn, constructed of metal sheet construction and in a poor state of repair, would improve the overall appearance of the site and the surrounding countryside.

Accessibility and Highway Safety

The complex is in a remote location midway between the villages of Peckleton and Desford. Vehicular access is gained from Peckleton, along a relatively narrow rural lane that is closed to through traffic but is used by walkers, cyclists and horse riders. The farm track leaves this lane at the point that it is closed to traffic. There would be an increase in vehicular traffic along this lane by the creation of two additional residential units. However, despite the nature of the lane and its lack of width and visibility in places, given the previous use of the site as a working farm which is likely to have generated a greater number of vehicle movements to that proposed, it would be difficult to sustain an objection to the development based on highway safety issues. The consultation response of the Director of Highways, Transportation and Waste Management (Highways) had not been received at the time of writing this report and will be reported as a late item.

Other issues

The Head of Community Services (Pollution) does not object to the development but in view of the former agricultural use of the complex for livestock, and the proposed creation of residential curtilage, conditions are recommended requiring contaminated land investigation and reporting together with any necessary remediation measures to be submitted and approved prior to any development commencing. The recommendation also includes conditions requiring archaeological building recording to be carried out in view of the historical interest of the buildings and a further ecological survey in respect of protected species to be carried out given that the submitted survey dates from December 2007.

The site is located more than 400 metres from the nearest informal open space therefore there is no requirement for contributions towards upkeep and maintenance of public open space.

Conclusion

The conversion of these redundant agricultural buildings to residential use would be acceptable in principle and would appear from the information provided to be the only viable alternative in this particular case. The applicant has provided sufficient information to demonstrate that overall the buildings are structurally sound and capable of conversion to the proposed use without the need for significant extension to, or demolition and rebuilding of, the external structure. The proposed conversion would not have any significantly adverse effect on the character or appearance of the buildings, the site or the surrounding countryside and the removal of a large metal building of poor visual appearance, together with additional landscaping of the southern part of the site would enhance its overall appearance and setting. The development would be unlikely to have an adverse effect on highway safety.

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, 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 would involve the conversion of existing buildings of structurally sound condition that are capable of being converted without significant extension or rebuilding and would not have an adverse effect on the rural character or appearance of the buildings, the wider site, the surrounding countryside, or highway safety.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, BE16, BE20, NE2, NE5, NE14 and T5.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of historic building recording. This work shall be conducted in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority.
- 3 Notwithstanding the submitted information, no development approved by this permission shall be commenced until a further ecological assessment by a suitably qualified person, carried out during the appropriate season, has been submitted to and approved in writing by the Local Planning Authority. The assessment shall fully consider the impact of the development on bats and potential roosts on the site, together with a mitigation plan where necessary. No development shall take place except in accordance with the approved details.
- 4 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to

and agreed in writing by the Local Planning Authority 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.

- 5 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 6 Before any development is commenced full details of the method of disposal of surface and foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details.
- 7 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the buildings shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 8 Notwithstanding the submitted drawings, details of the proposed windows and doors shall be submitted to and agreed in writing by the Local Planning Authority before development commences. The development shall be implemented in accordance with the approved details.
- 9 The insertion of all roof lights shall be of a 'conservation style' and shall not protrude above the plane of the roof slope. No additional breaches other than those depicted on the approved plans to the external fabric of the building, including any ducts, vents or flues, shall be implemented without the prior written consent of the Local Planning Authority.
- 10 Before development commences full details of the provision to be made for landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 11 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 12 The existing buildings to the south of the proposed garage/store shall be demolished and removed from the site as indicated on the proposed site plan No. KUL/001/01 B prior to first occupation of either of the dwellings hereby approved.
- 13 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by the (Amendment)(No.2)(England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A to E inclusive shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure satisfactory historic building recording to accord with policy BE16 of the adopted Hinckley and Bosworth Local Plan.
- 3 To ensure that any potential adverse impact on protected species is minimised and appropriate mitigation measures are in place prior to the development of the site to accord with Planning Policy Statement 9 (Biodiversity and Geological Conservation).
- 4 & 5 To ensure safe development of the site and to protect the amenities of future occupiers of the site to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan
- 6 To ensure satisfactory provisions are made for the drainage of the site to accord with policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 7 - 9 To ensure that the development has a satisfactory external appearance to accord with policy BE1 and BE20 of the adopted Hinckley & Bosworth Local Plan.
- 10 To enhance the appearance of the development to accord with policy BE1 and NE5 of the adopted Hinckley & Bosworth Local Plan.
- 11 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE1 and NE5 of the adopted Hinckley & Bosworth Local Plan.
- 12 To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 13 To safeguard the rural character and appearance of the site and in the interests of visual amenity to accord with policies BE1, BE20 and NE5 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 In relation to conditions 4 and 5, advice from Health and Environment Services is attached to this decision notice which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.
- 6 In relation to condition 6, a septic tank proposal will require the consent of the Environment Agency and must comply with the Agency's conditions. The applicant is advised that a package sewage treatment plant, sized to accept inflow from the existing farmhouse and the additional two dwellings, would be a better waste water treatment solution, subject to the availability of a suitable receiving ditch or watercourse. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively, assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
- 7 In relation to condition 8, all windows and doors shall be recessed and constructed of timber.
- 8 In relation to condition 10, the landscaping scheme shall include the planting of native species and provide full details of the schedule of plants including species, plant sizes and proposed numbers/densities together with written specifications and an implementation programme.
- 9 List of Plans used in the determination of this application:- Site Location Plan; Survey Drawing Nos. 11252/1; 11252/2; 11252/3; 11252/4; 11252/5; 11252/7; 11252/8; 11252/9; Proposed Site Plan No. KUL/001/01 B; Proposed Elevation and Floor Plan Nos. KUL/001/02; KUL/001/03; KUL/001/04; KUL/001/06.

Contact Officer:- Richard Wright Ext 5894

PLANNING COMMITTEE – 2 JUNE 2009

REPORT OF THE DEPUTY CHIEF EXECUTIVE

RE: THE BOROUGH OF HINCKLEY AND BOSWORTH (LAND AT 17 HINCKLEY ROAD, EARL SHILTON) TREE PRESERVATION ORDER 2009

1. PURPOSE OF REPORT

1.1 To consider the confirmation of the above Order.

2. RECOMMENDATION

2.1 That the Order be confirmed as made.

3. BACKGROUND TO REPORT

3.1 The Borough Council has the power to make Tree Preservation Orders under Sections 198 and 201 of the Town and Country Planning Act 1990. The above Order was made under delegated powers on 12th February 2009, copy attached to this report. The effect of the Order is to protect the tree set out in the attached schedule and plan, indicated as T1 which is a Silver Birch (*Betula pendula*).

3.2 The Order came into effect when it was made. The reasons for making the Order are that the tree is in a healthy condition and is considered to enhance the visual amenity of the area as it is visible from Melton Street.

3.3 The Council has received three letters of objection to the Order. The letters are dated 24 February 2009 and two letters dated 16 March 2009 respectively, copies of which are attached to this report. The letters dated 16th March 2009 are identical in content and so are referred to jointly throughout this report.

3.4 The Legal Section attempted to address these objections via correspondence with the objectors however the Legal Section have not had a response to its letters and so it assumes that the objections stand as written.

3.5 The objections along with the Council's Arboriculturist's comments are below:-

3.5.1 Objection letter dated 24th February 2009 states 8 grounds of objection. Grounds 1-6 are all regarding safety and so these have been collated:

"1) It is a possible danger to residents in the local vicinity.

2) The tree is sufficient in size that if it was to fall could cause considerable damage in any direction.

3) If the tree was to fall in one particular direction could fall straight onto the house behind cause [sic] considerable damage to the house and residents inside.

4) If it fell towards my house then it could crush the outbuildings which are the main reason why the houses are registered as being in a Conservation Area.

5) In addition the neighbour behind is concerned about the tree damaging his house as there are branches of the tree that get close to his house in windy conditions.

6) My garden is around 18ft long and 6ft wide but the tree in the garden has grown well over 20ft high and 2ft wide due to no fault of my own as I only bought the house 8 months ago."

- 3.5.2 The Council is of the opinion that there are no visible defects to suggest there is a risk of a branch collapse or the tree falling. A tall tree is not automatically a dangerous tree. Trees will naturally grow as their genetic codes of their species dictate, and depending on the presence of external influences such as adjacent structures, natural competition from other trees, soil type and fertility or microclimate. Therefore the tree will not fall down simply because it is tall.
- 3.5.3 There will never be zero risk but in this case the risk has been assessed to be low when applying the accepted method of risk assessment which takes into account the likelihood of failure, the size of the part that may fail and the potential damage caused by that failure. In this case the retention of the tree does not present an unreasonable level of risk.
- 3.5.4 Ground 7 states:-
"7) In your letter it stated that the tree is visible from Mount Road [sic] that road is four houses down, this was stated as a reason to keep the tree this statement just prove [sic] to me how big the tree was for the area."
- 3.5.5 The Council considers that this tree is worthy of protection because it adds to the amenity of the surrounding area. The tree is visible from a public highway, namely Melton Street, and the Council believes if the tree was to be removed it would have a significant detrimental impact on the local environment. Please see above comments regarding tall trees.
- 3.5.6 Ground 8 states:-
"8) Also I have has [sic] a Tree Surgeon round who believes that the tree could be damaging the house behinds [sic] foundations."
- 3.5.7 The Council considers that if there is concern over subsidence risk or direct damage to structures through growth of tree roots we would require evidence of this in the form of a report from a structural engineer with an assessment of foundation depth and soil plasticity or evidence of damage, comments from a tree surgeon are not sufficient to prove damage or the potential for damage to property foundations. Please note that the Council have not been supplied with any reports from a structural engineer or written comments from the above mentioned tree surgeon.
- 3.5.8 Also, if regular inspections are undertaken and any potential maintenance is implemented the tree should not cause any damage to the properties; the Order does not prevent acceptable tree maintenance from being carried out with the Council's consent.

3.5.9 The letters of objection dated 16th March 2009 have 4 grounds of objection:-

3.5.10 1) *Size & location of tree*

Please see the Council's comments above at paragraph 3.5.2 as this adequately deals with this point.

3.5.11 2) *Age of tree and likelihood of falling branches*

The Council considers that there are no visible defects to suggest there is a risk of a branch collapse or the tree falling. There will never be zero risk but, as stated in paragraph 3.5.3, in this case the retention of the tree does not present an unreasonable level of risk.

3.5.12 3) *Continued growth of the root network would cause unknown damage to the ground works, stability of the property and also boundary wall.*

The Council considers that if there is concern over subsidence risk or direct damage to structures through growth of tree roots we would require evidence of this in the form of a report from a structural engineer with an assessment of foundation depth and soil plasticity or evidence of damage. The Council has not received any reports from the objectors.

3.5.13 4) *Blockage of light*

The Council considers that if regular inspections are undertaken and any potential maintenance is implemented the tree should not block light into the properties or cause any damage to the properties in the vicinity; the Order does not prevent acceptable tree maintenance from being carried out with the Council's consent.

3.6 The Council has also received a letter of representation (copy attached) which states that the tree should be preserved as it is in a healthy condition, is considered to enhance the visual amenity of the area and provides a home for a variety of wildlife throughout the year.

3.7 It is accordingly recommended that the Order be confirmed as it stands.

4. **Financial Implications** (AB)

4.1 None relating directly to this report

5 **Legal Implications** (AB)

5.1 Contained in the Body of the report

6. **CORPORATE PLAN IMPLICATIONS**

6.1 None

7. **CONSULTATION**

7.1 The relevant statutory consultees have been consulted. Those who responded are referred to in the body of the report.

8. **RISK IMPLICATIONS**

8.1 It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
If the Order is not confirmed the tree may potentially be cut down or damaged	Protect the tree by confirming the Tree Preservation Order	Denise Bigley

9. **RURAL IMPLICATIONS**

9.1 Tree Preservation Order affect rural and urban equally.

10. **CORPORATE IMPLICATIONS**

10.1 None

Background papers: The Borough Council of Hinckley & Bosworth (Land at 17 Hinckley Road, Earl Shilton) Tree Preservation Order 2009.

Planning File Ref.
Legal Department. File Ref. PTPO/118

Contact Officer: Denise Bigley Development Services Technician, ext 5674

**THE BOROUGH COUNCIL OF HINCKLEY & BOSWORTH (Land at 17
Hinckley Road, Earl Shilton) TREE PRESERVATION ORDER 2009**

The Borough Council of Hinckley & Bosworth, in exercise of the powers conferred on them by sections 198 (201) and 203 of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation

1. This Order may be cited as **The Borough Council of Hinckley and Bosworth (land at 17 Hinckley Road, Earl Shilton) Tree Preservation Order 2009.**

Interpretation

2. In this Order "the authority" means the Borough Council of Hinckley and Bosworth and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 12th February 2009.

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) [or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested)], and subject to article 5, no person shall:-

- (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of, any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5. - (1) Nothing in article 4 shall prevent –
 - (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary –
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
 - (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
 - (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a) (iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
 - (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out the development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or
 - (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.

-(2) In Paragraph (1), "statutory undertaker" means any of the following:-

a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,

- a relevant airport operator (within the meaning of Part V of the Airports Act 1986),
- the holder of a licence under section 6 of the Electricity Act 1989,
- a public gas transporter,
- the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,
- a water or sewage undertaker,
- the Civil Aviation Authority or a body acting on behalf of that Authority
- the Post Office

Application of provisions of the Town and Country Planning Act 1990

6. -(1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

-(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting

7. -(1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

-(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

-(3) A direction under paragraph (1) may include requirements as to:-

- (a) species;
- (b) number of trees per hectare;
- (c) the preparation of the relevant land prior to the replanting; and
- (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

8. -(1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of:-

- (a) the refusal of any consent required under this Order; or
- (b) the grant of any such consent subject to conditions, he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

-(2) No claim, other than a claim made under paragraph (3), may be made under this article:-

- (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
- (b) if the amount in respect of which the claim would otherwise have been made is less than £500.

-(3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

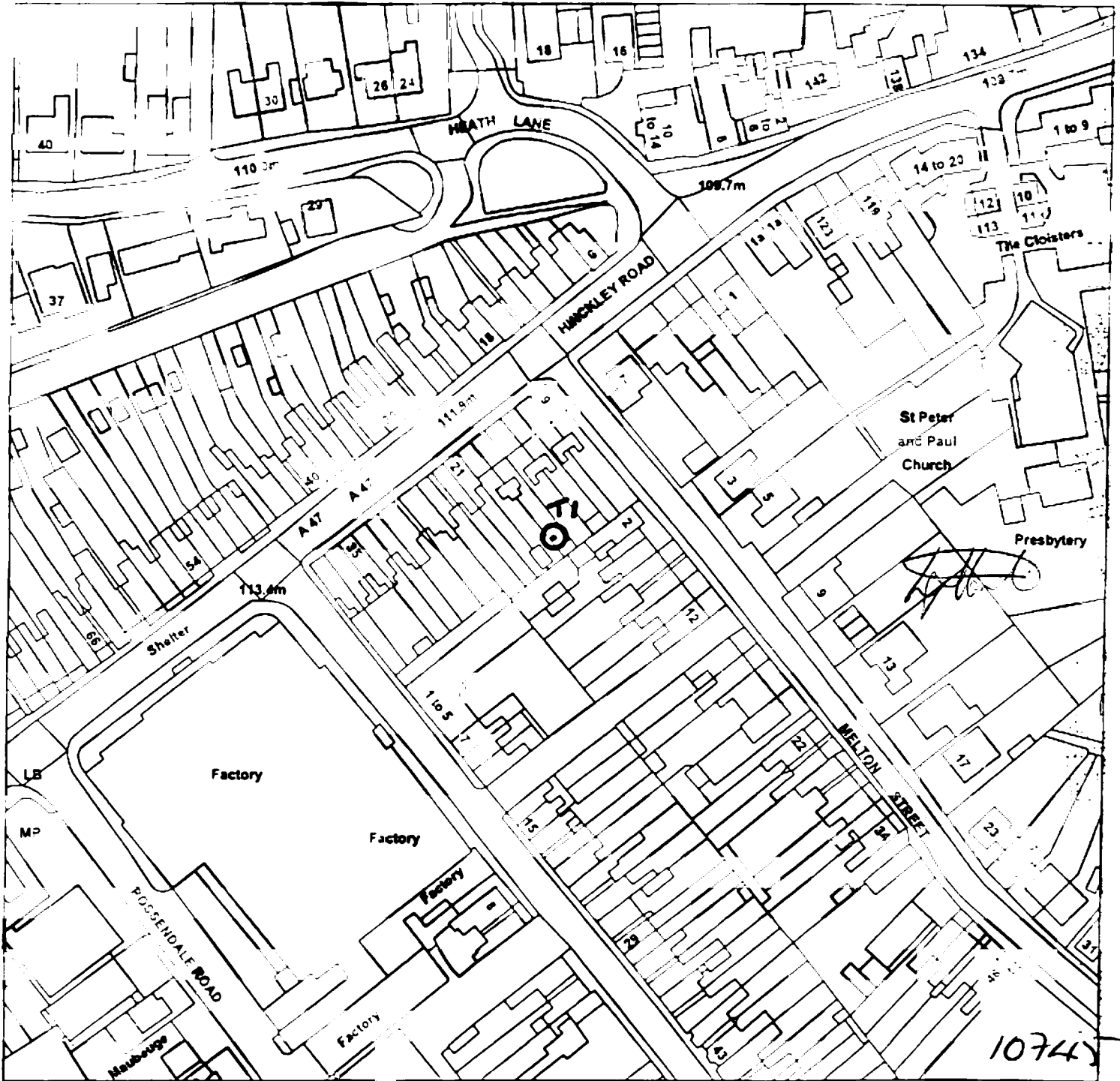
-(4) In any other case, no compensation shall be payable to a person:-

- (a) for loss of development value or other diminution in the value of the land;
- (b) for loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
- (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
- (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

-(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act of 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

17 Hinckley Road, Earl Shilton

TPO Site Plan



Scale : 1:1250

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Produced using ESRI (UK)'s MapExplorer 2.0 - <http://www.esriuk.com>

Organisation	Hinckley and Bosworth Borough Council
Department	Land and Property Data
Comments	Do not copy
Date	03 February 2009
SLA Number	Not Set

- (6) In this article:-
"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and
"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

Dated this 12 day of February 2009

The Common Seal of the Borough Council of Hinckley and Bosworth
was hereunto affixed in the presence of:-

Authorised Signatory

A handwritten signature in black ink, appearing to be 'J. Hillen', written over a circular embossed seal.

SCHEDULE 1
Article 4

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T.1.	1 x Silver Birch (<i>Betula pendula</i>)	17 Hinckley Road

Trees specified by reference to an area
(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>

Groups of trees
(within a broken line on the map)

<i>Reference on map</i>	<i>Description (including number of trees in the group)</i>	<i>Situation</i>

Woodlands
(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>

SCHEDULE 2
Article 7

PART I

Provisions of the Town and Country Planning Act 1990 applied with adaptations or modifications

<i>Provision of the Town and Country Planning Act 1990</i>	<i>Adaptation or modification</i>
Section 69 (registers)	<p>(a) In subsection (1) – omit – “,in such manner as may be prescribed by a development order,”, “such” in the second place where it appears, and “as may be so prescribed”; and (ii) substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”.</p> <p>(b) In subsection (2) – (i) after “contain” insert “, as regards each such order”; and (ii) for paragraphs (a) and (b) substitute – “(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and (b) a statement as to the subject matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it.”.</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>
Section 70 (determination of applications: general considerations)	<p>(a) In subsection (1) – (i) substitute – “Subject to subsections (1A) and (1B), where” for “Where”; “the authority” for “a local planning authority”; “consent under a tree preservation order” for “planning permission” where those words first appear; and “consent under the order” for “planning permission” in both of the other places where those words appear; (ii) after “think fit”, insert- “(including conditions limiting the duration of the consent or requiring the replacement of trees)”;</p> <p>(iii) omit “subject to sections 91 and 91.”.</p> <p>(b) After subsection (1) insert – ” (1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area. (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).”.</p> <p>(c) Omit subsections (2) and (3).</p>
Section 75 (effect of planning permission)	<p>(a) In subsection (1) substitute – (i) “Any” for the words “Without” to “any”; (ii) “consent under a tree preservation order” for “planning permission to develop land”; (iii) “the consent” for “the permission”; and (iv) “the land to which the order relates” for “the land”.</p> <p>(b) Omit subsections (2) and (3)</p>
Section 78 (right to appeal against planning decisions and failure to take such decisions)	<p>(a) In subsection (1) substitute – (i) “the authority” for “a local planning authority”; (ii) “consent under a tree preservation order” for “planning permission” in the first place where those words appear; (iii) “consent under such an order” for “planning permission” in the second place where those words appear;</p>

	<p>(iv) for paragraph (c) substitute – “(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority.” (b) Omit subsection (2) (c) In subsection (3) for “served within such time and in such manner as may be prescribed by a development order.” Substitute – “in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority’s decision or direction or within such longer period as the Secretary of State may allow; (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.” (d) For subsection (4), substitute- ” (4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).” (e) For subsection (5), substitute – ” (5) for the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.”</p>
Section 79 (determination of appeals)	<p>(a) In subsections (1) and (2), substitute “the authority” for “the local planning authority”. (b) Omit subsection (3). (c) In subsection (4), substitute – (i) “section 70(1), (1A) and (1B)” for “sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5”; (ii) “consent under a tree preservation order” for “planning permission”; and (iii) “the authority.” for “the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71.” (d) Omit subsections (6) and (6A). (e) In subsection (7), omit the words after “section 78”.</p>

Provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

- (1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.
- (2) The Register shall contain, as regards each such order
- (a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and
 - (b) a statement as to the subject matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it.

- (5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

- (1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order:-
- (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
 - (b) they may refuse consent under the order
 - (1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area
 - (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

- (1) Where the authority:-
- (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
 - (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;
 - (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or
 - (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority, the applicant may by notice appeal to the Secretary of State.

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-

- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of state may allow;
- (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)

(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

Section 79

- (1) On an appeal under section 78 the Secretary of State may:-
- (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),
- and may deal with the application as if it had been made to him in the first instance.
- (2) Before determining an appeal under section 78 of the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(5) The decision of the Secretary of State on such an appeal shall be final.

(7) Schedule 6 applies to appeals under section 78.

Miss E Plumbley-Legal Section
Hinckley & Bosworth Borough Council
Council Offices, Argents Mead
Hinckley
Leicestershire
LE10 1BZ

- 2 MAR 2009



Dear Miss E Plumbley,

I would like to object about a TPO being put on the tree in my Garden. I wrote to the council in good faith hoping that common sense would be applied to my application about removing the tree in the garden. I tried to follow the correct procedures in this matter by checking with your department but it turned out that this just made the situation more complicated. This tree is a possible danger to all the residents in the local vicinity. In the letter I received from your department it said the tree was healthy but this does not mean that it could not fall over or branches fall off. I will bullet point the reasons why I think the tree should be removed below:

- 1) It is a possible danger to residents in the local vicinity.
- 2) The tree is sufficient in size that if it was to fall could cause considerable damage in any direction.
- 3) If the tree was to fall in one particular direction could fall straight into the house behind cause considerable damage to the house and residents inside.
- 4) If it fell towards my house then it could crush the outbuilding which is the main reason why the houses are registered as being in a Conservation area.
- 5) In addition the Neighbour behind is concerned about the tree damaging his house as there are branches of the tree that get close to his house in windy conditions.
- 6) My Garden is around 18Ft long and 6Ft wide but the tree in the garden has grown well over 20Ft high and 2Ft wide due to no fault of my own as I only bought the house 8 Months ago
- 7) In your letter it stated that the tree was visible from Mount Road that road is four houses down, this was stated as a reason to keep the tree this statement just prove to me how big the tree was for the area.
- 8) Also I have has a Tree surgeon round who believes that the tree could be damaging the house behinds foundations.

I realise the beauty of such a tree but is it really worth the potential cost of having it in a built up area. I will be willing to replace the tree with one of its own kind but refuse to accept the responsibility of what the tree is capable of doing to the properties and people in the area. I look forward to your reply.

Yours Sincerely



Miss E Plumbley
Solicitor/Legal Services
Council Offices
Argents Mead
Hinckley
Leicestershire
LE10 1BZ

13 MAR 2009

Your Ref: EP/PTPO-118
Date: 16th March 2009

Dear Miss Plumbley,

**RE: Land at 17 Hinckley Road, Earl Shilton - Tree Preservation Order 2009
Objection.**

In response to your letter dated 5th March 2009, I would like to make an objection to your recent order passed on 12th February, which prohibits the removal of the large Silver Birch on the land at 17 Hinckley Road, Earl Shilton.

Due to the size and location of the tree we are increasingly concerned with the safety of our property. The Silver Birch currently lies adjacent to the back of the house about one metre from the main house wall. The building is currently under a third of the trees large canopy, which I feel is a serious hazard to our home. Due to the trees age, older branches could easily brake and damage the roof of the property causing expensive cost liable to the land owners.

Further to this, I have concerns regarding the root network, that should the tree be allowed to continue growth would do unknown damage to ground works, stability of the property and also the boundary wall.

The size and location of the tree also blocks a large amount of light into the garden. I know that this is not a hazardous issue, but I think it is still relevant one that should be addressed.

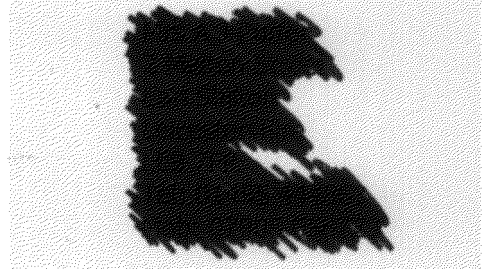
I look forward to hearing the outcome; please contact me if you have any further queries.

Yours Sincerely



Miss E Plumbley
Solicitor/Legal Services
Council Offices
Argents Mead
Hinckley
Leicestershire
LE10 1BZ

10 MAR 2009



Your Ref: EP/PTPO-118
Date: 16th March 2009

Dear Miss Plumbley,

**RE: Land at 17 Hinckley Road, Earl Shilton - Tree Preservation Order 2009
Objection.**

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I look forward to hearing the outcome; please contact me if you have any further queries.

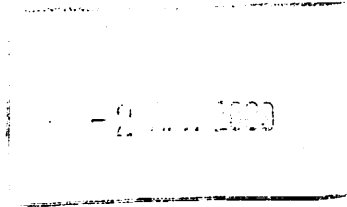
Yours Sincerely



March 31, 2009

Miss E Plumbley
Council offices
Argents Mead
Hinckley
Leicestershire
LE101BZ

02 APR 2009



Dear Miss Plumbley,

I am writing to object to the cutting down of the silver birch tree that is positioned at the bottom of my garden. I feel that there is no reason for it to be destroyed and it provides a home for a variety of wildlife throughout the year. The tree is in a healthy condition and is considered to enhance the visual amenity of the area, I feel that there is not enough natural vegetation and we need to preserve what we have.



PLANNING COMMITTEE – 2 JUNE 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 Gary Smith against the refusal of planning permission for the retention of one and erection of one radio masts and antennas (08/00787/FUL) at 2 Hawthorne Rise, Groby. (Written Representations).

3.2 Appeals Determined

3.2.1 Appeal by Tesco stores against a split for the refusal of advertisement consent for an 'Open 24 Hours' fascia sign on the southern elevation at 1 Hawley Road, Hinckley.

3.2.2 The Inspector considered the edge of town location, and the topography of the area which leads to the sign being visually prominent from the nearby recreation ground, properties in East Close and the Rugby Road, which the Inspector identified as one of the main approaches into the town. The Inspector considered that with the approved signage at the store, the proposed sign added visual clutter of advertising material in this location and concluded that the cumulative effect was harmful to the visual amenity.

3.2.3 INSPECTOR'S DECISION

Appeal Dismissed (Officer decision)

4. **FINANCIAL IMPLICATIONS**

4.1.1 All costs incurred and costs recovered will be met from existing 2009/2010 Revenue Budgets.

5. **LEGAL IMPLICATIONS**

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 |

Background papers: Appeal Decisions

Contact Officer: Sarah Humphries ext 5680

PLANNING COMMITTEE - 2 JUNE 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: 22.05.09

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
	CH	08/00349/FUL	WR	JS Bloor	Land at Sword Drive/Stoke Road Hinckley	<i>Awaiting Start Date</i>	
09/00008/PP Conjoined with 09/00006/PP	LF	09/00029/FUL	PI	Graham Wragg	Common Farm Barton Road Carlton	<i>Start Date</i> Proof of Evidence Inquiry Date (2 days)	16.04.09 03.06.09 01.07.09
09/00009/PP	RW	08/00787/FUL	WR	Gary Smith	2 Hawthorn Rise Groby	<i>Start Date</i> Statement Comments	24.04.09 05.06.09 26.06.09
09/00007/PP	JH	08/01073/FUL	WR	Duncan Smith Property Ltd	60 Main Street Higham on the Hill Nuneaton	<i>Start Date</i> Comments	25.03.09 27.05.09
09/00006/PP	LF	08/00978/FUL	PI	Mr G Wragg	Common Farm Barton Road Carlton	<i>Start Date</i> Proof of Evidence Inquiry Date (2 days)	25.03.09 03.06.09 01.07.09
09/00005/PP	RW	08/00463/OUT	WR	Mr Bally Chauhan	Broomcroft Bradgate Hill Groby	<i>Start Date</i> Awaiting Decision	27.02.09
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	<i>Start Date</i> Proof of Evidence Inquiry Date (2 days)	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

Rolling April - May 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