

Date: 27 July 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)

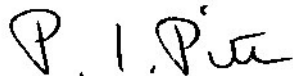
Dear Councillor

There will be a meeting of the **PLANNING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **TUESDAY, 4 AUGUST 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**

**4 AUGUST 2009**

**A G E N D A**

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 7 July 2009 attached marked 'P12'.

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 'P13' (pages 1 – 54).

RESOLVED

8. APPEALS LODGED AND DETERMINED

Report of the Director of Community and Planning Services attached marked 'P14' (pages 55 – 57).

RESOLVED

9. APPEALS PROGRESS

Report of the Director of Community and Planning Services attached marked 'P15' (pages 58 – 60).

RESOLVED

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

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

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL**

**PLANNING COMMITTEE**

**7 JULY 2009 AT 6.30 PM**

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

Mrs M Aldridge, Mr JC Bown, Mr WJ Crooks, Mrs A Hall, Mr P Hall, Mr CG Joyce, Mr K Morrell, Mr O O'Shea, Mr BE Sutton, Mr R Ward and Mrs BM Witherford.

In accordance with Council Procedure Rule 4.4 Mr MB Cartwright also attended the meeting.

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

96 **APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf Messrs Bannister, Boothby and Nichols.

Mr Cartwright left the meeting at 6.34pm having been advised that notification of his proposed substitution for Mr Boothby had not been received in accordance with Council Procedure Rule 4.3.

97 **MINUTES (P7)**

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

**RESOLVED** – the minutes of the meeting held on 2 June 2009 be confirmed and signed by the Chairman.

98 **DECLARATIONS OF INTEREST**

No interests were declared at this stage.

99 **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) 09/00211/FUL: approval had been issued;
- (b) 09/00300/FUL: approval had been issued;
- (c) 09/00323/FUL: approval had been issued.

100 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P8)

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) 09/00141/DEEM – Re-Development of the former Atkins Factory Site for a mixed use development comprising a new college building and the change of use and conversion of the existing Goddard Building for use as a Creative Industries Centre, including associated car parking and public realm improvement, Atkins Bros Ltd, Lower Bond Street, Hinckley – HBBC and North Warwickshire and Hinckley College

It was reported that in addition to the report, there were additional conditions and reasons contained within the late items, and the Solicitor to the Committee suggested an amendment to the first sentence of the recommendation to clarify the power which the Council would use to secure developer contributions.

It was moved by Mr O'Shea, seconded by Mrs Witherford and

RESOLVED – subject to the College entering into an agreement with the Council pursuant to the Council's powers under the Local Government Acts of 1972 and 2000 or the Town and Country Planning Act 1990, as appropriate, to provide contributions towards transportation improvements in the town centre, the Director of Community and Planning Services be granted delegated powers to refer the application to the Secretary of State and issue the decision accordingly subject to the conditions outlined in the officer's report and late items.

- (b) 09/00321/FUL – Change of use from Liberal Club to convenience store including extensions and alterations to building, Burbage Liberal Club, 21 Lutterworth Road, Burbage – AF Blakemore & Sons Ltd

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

RESOLVED – the Director of Community and Planning Services be granted powers to issue planning permission subject to the satisfactory resolution of the highway related issues raised by the Director of Highways, Transportation and Waste Management (Highways) and the conditions contained in the officer's report. Failure to resolve these issues by 23 July 2009 would result in the application being refused.

- (c) 09/00354/FUL – Erection of 1 dwelling, 23 Cherry Orchard, Higham on the Hill – Mr T Barton

Notwithstanding the officer's recommendation that the Director of Community and Planning Services be granted powers to issue planning permission subject to no further significant objections being

raised, some Members felt that the access to the site was inadequate and would have an adverse impact on the amenity of adjoining properties. It was moved by Mr Ward and seconded by Mr Sutton that the application be refused on these grounds.

The Director of Community and Planning Services requested that voting be recorded on this motion. The vote was taken as follows:

Mr Crooks, Mr Hall, Mr Joyce, Mr Morrell, Mr O'shea, Mr Sutton, Mr Ward and Mrs Witherford voted FOR the motion (8);

Mrs Aldridge, Mr Bown, Mrs Hall, Mr Inman and Mr Mayne voted AGAINST the motion (5).

The motion was declared CARRIED. It was therefore

RESOLVED – the application be refused on grounds of inadequate access and impact on the amenity of adjoining properties.

- (d) 09/00368/FUL – Erection of an agricultural building, New House Grange, Orton Lane, Sheepy Magna – Mr & Mrs R Poulson

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

- (e) 09/00369/FUL – Erection of 1 dwelling, 36 Grove Road, Burbage – Mrs Sue Bee

It was moved by Mr O'Shea, seconded by Mrs Aldridge and

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

- 101 THE BOROUGH OF HINCKLEY & BOSWORTH EXTINGUISHMENT OF FOOTPATH V3 OFF TRINITY LANE, HINCKLEY, PUBLIC PATH EXTINGUISHMENT ORDER 2009 (P9)

The Committee gave consideration to the proposed Extinguishment Order to close footpath V3. On the motion of Mr Crooks, seconded by Mr Bown, it was

RESOLVED – the Extinguishment Order be approved.

- 102 APPEALS LODGED AND DETERMINED (P10)

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

RESOLVED – the report be noted.

103 APPEALS – PROGRESS (P11)

A schedule was submitted indicating the stages that various appeals against planning decisions had reached.

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

RESOLVED – the report be noted.

(The meeting closed at 8.03pm)

**PLANNING COMMITTEE AGENDA - 4 August 2009 - NUMERIC INDEX**

<b>REF. NO.</b>	<b>APPLICANT</b>	<b>SITE</b>	<b>ITEM</b>	<b>PAGE</b>
09/00340/CONDIT	Crest Nicholson Midlands Ltd	Land Adjacent To 391 Coventry Road Hinckley	01	01
09/00343/CONDIT	Crest Nicholson Midlands Ltd	Land Adjacent To 391 Coventry Road Hinckley	02	07
09/00385/CONDIT	Mrs S Robinson	12 Mansion Street Hinckley	03	13
09/00421/TEMP	Mr C Klenk	Stanmaur Farm Breach Lane Earl Shilton	04	17
09/00431/FUL	Mrs R Wright	7 Leicester Road Hinckley	05	24
09/00441/COU	Costa Coffee	25 Castle Street Hinckley	06	30
09/00455/OUT	Mr David Hancock	69 Main Street Carlton Nuneaton CV13 0BZ	07	35
09/00493/DEEM	Hinckley & Bosworth Borough Council	Land Adj 50 Forest Rise Groby	08	43
09/00494/FUL	Mr & Mrs Paul Witham	35 Springfield Road Hinckley	09	49



**REPORT P13**

**PLANNING COMMITTEE**

**4 August 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:** 09/00340/CONDIT

**Applicant:** Crest Nicholson Midlands Ltd

**Location:** Land Adjacent To 391 Coventry Road Hinckley Leicestershire

**Proposal:** REMOVAL OF CONDITION 21 OF PLANNING PERMISSION 05/00615/FUL TO ALLOW OCCUPATION WITHOUT CARRYING OUT IMPROVEMENTS TO DODWELLS ROUNDABOUT ATTACHED TO PLANNING PERMISSION 99/00048/OUT

**Introduction:-**

This application should be read in conjunction with application 09/00343/CONDIT which follows on this agenda.

The application seeks to remove condition 21 attached to planning permission 05/00615/FUL which permitted the erection of 10 commercial units on land to the north of Coventry Road, Hinckley. Condition 21 states:

No more than 2500 square metres of floorspace shall be occupied until the improvements shown on TPK Drawing No 12088/14 Revision B, attached to planning permission 99/00048/OUT, or such other similar schemes have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency and have thereafter been substantially completed.

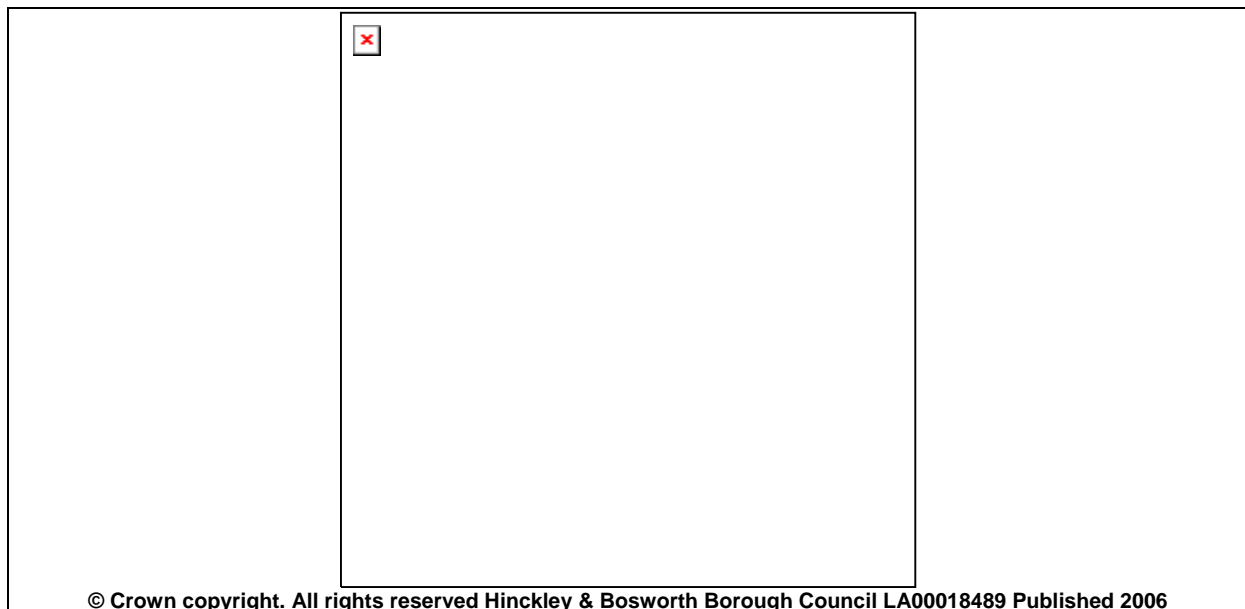
The improvements shown on the relevant drawing relate to works to the Dodwell's roundabout. The applicant seeks removal of the condition on the grounds that it is not necessary, reasonable or precise in planning terms and is not relevant to the development.

The application has been accompanied by a S-Paramics Traffic Modelling Report, an Updated Capacity Assessment and a Planning Statement which concludes that "condition 21 of the planning permission is ultra vires as it fails to meet the tests of necessity, precision and reasonableness and is not relevant to the development not only at the date of granting of permission but also at today's date."

**History:-**

07/01150/FUL	Mixed Commercial Development Comprising B1, B2, B8 and Sui Generis Uses	Approved	12.12.07
07/00529/FUL	Mixed Commercial Development Comprising B1, B2, B8 and Sui Generis Uses	Dismissed at Appeal	09.09.08
05/00615/FUL	Erection of 10 Commercial Units	Approved	11.08.05
05/00216/REM	Reserved Matters Application For Ten Commercial / Industrial/ Office Units.	Withdrawn	24.05.05

03/01110/CONDIT	Variation of Condition XVII of Application 99/00047/OUT to Allow 160 Dwellings to be Occupied Before A5 Highways Works are completed.	Approved	04.12.03
03/00411/CONDIT	Variation of Condition 3 of Application 99/00048/OUT to Allow Extension of Time for Submission of Reserved Matters Application	Approved	09.06.03
99/00048/OUT	Industrial development for B1 B2 and B8 Uses.	Appeal Allowed on	09.05.00
99/00047/OUT	Residential Development and Associated Infrastructure Public Open Space and Landscaping	Appeal Allowed on	09.05.00



**Consultations:-**

No objection has been received from:-

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

The Cyclists Touring Club have raised concerns regarding the removal of the condition.

Director of Highways, Transportation and Waste Management (Highways) raises no comment on the application as the condition was recommended by the Highways Agency and relates to the Trunk road network.

The Highways Agency have directed that the application should not be permitted. They comment that their own modelling work is in variance with the applicants submitted model which demonstrates that the condition is unnecessary, that they consider the condition

reasonable due to the cumulative impact of both the residential and industrial applications and that the condition is precise as there is a clear link to the original permission, the drawing reference is specific and the drawing is available for public inspection. The Agency's comments conclude that they are keen to maintain a constructive dialogue with the Council and the Developer on the most appropriate way forward but they direct planning permission should not be granted until these matters are resolved.

A site notice and press notice were displayed and neighbours notified. At the time of writing this report no comments have been received from these.

## **Policy:-**

### National Policy

Circular 11/95 Use of Conditions in Planning Permissions sets out six tests which conditions should be in accordance with if they are to be imposed. These are that the condition should be necessary, reasonable, enforceable, precise and relevant to both planning and the development itself.

### Local Plan Policy

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

## **Appraisal:-**

The main considerations with regards to this application are the previous application history and the tests of conditions.

### The Previous Application History

The application site was subject to an outline application for industrial development in 1999 (99/00048/OUT). This was taken to appeal on grounds of non-determination and heard at a joint public inquiry with an application for residential development opposite the application site on Coventry Road (99/00047/OUT). Both applications were submitted by Crest Strategic Projects Ltd.

The appeal was allowed subject to a number of conditions. Of relevance to this application are two conditions included at the request of the Highways Agency. Firstly, condition XVII of permission 99/00047/OUT relating to the residential development. This requires the improvements shown on TPK drawing no. 12088/14 Revision B or such other similar schemes that have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency and the Highways Authority to have been substantially completed before no more than 100 dwellings have been occupied or 50 dwellings if the industrial development has been commenced.

A similar condition, no. XXII, was imposed on the industrial development approval (99/00048/OUT) this required the improvements to be completed before 5000 square metres of employment floorspace or no more than 2500 square metres if the adjacent residential development has already commenced. In both cases, TPK drawing no. 12088/14 Revision B refers to improvement works to the Dodwells Roundabout where the Coventry Road joins the A5.

The industrial development application was subject to a variation of condition application to extend the time allowed for the reserved matters details to be submitted in 2003 (03/00411/CONDIT).

A further variation of condition application allowed condition XVII of permission 99/00047/OUT, the residential development, to be varied to allow the number of dwellings to be constructed before the roundabout improvement works to be increased from 100 to 160 dwellings (03/01110/CONDIT). This application was also submitted by Crest.

The residential scheme has now been completed under permissions 01/00552/REM and 03/00381/REM which have allowed a total of 424 dwellings to be constructed.

The industrial site was subject to a detailed application in 2005 for the erection of 10 commercial units (05/00615/FUL). The permission was subject to a condition based on the condition imposed by the Inspector requiring improvements to the Dodwells roundabout with the only alteration being the removal of the reference to the residential development which by then was well under development. The industrial site was then subject to a further application in 2007 (07/01150/FUL) which is now being implemented. The condition imposed in 2005 was also applied to the 2007 permission. This application seeks the removal of the condition applied to the 2005 permission while the next item on the agenda seeks the removal of the condition from the 2007 permission.

While the residential development is completed and the industrial development has been begun the required works to Dodwells roundabout have not been commenced.

### Tests of Conditions

Circular 11/95 sets out that conditions should be necessary; relevant to planning; relevant to the development being permitted; enforceable; precise; and reasonable in all other respects.

The applicant has set out in their planning statement that they consider the imposition of the condition was not necessary, reasonable or precise and was not relevant to the development. These will be addressed in turn.

#### (i) Necessary

The circular sets out that in order for a condition to be deemed necessary Authorities should ask themselves whether planning permission would have been refused if the condition was not imposed. The condition was originally suggested by the Highways Agency on the 1999 applications. This enabled them to withdraw their holding objection to those schemes. The inclusion of the conditions were agreed by both parties as part of the Public Inquiry into the 1999 applications and were imposed by the Inspector on the subsequent decision notices.

While the Highways Agency were not consulted on the 05/00615/FUL application, as the application site was not within their consultation area, it was considered that the condition remained necessary as the scheme proposed was based on that suggested at outline stage and would along with the residential development that had at the time been commenced have an impact on the road network and thus require the improvements as shown on the drawing.

The applicant states in their Planning Statement that the submitted S-Paramics and Updated Capacity Assessment demonstrate that the improvement required by condition 21 were no longer necessary in highways terms in 2005 and remain unnecessary at the date of this application. The consultation response from the Highways Agency states that the modelling

work they have undertaken is at variance with the view of the applicant and hence they have directed that the application should not be permitted.

The works are therefore considered to be necessary at the time of the 2005 application and remain necessary now.

(ii) Reasonable

The circular states that a condition may raise doubt about whether the person carrying out the development to which it relates can reasonably be expected to comply with it. The circular continues to state that one case where this may occur is where a condition is imposed requiring the carrying out of works on land not under control of the applicant. The works proposed on plan TPK Drawing No 12088/14 Revision B as mentioned within the condition is entirely within the highway and therefore is within the ability of the applicant to have these works carried out with the agreement of the Highways Agency. No third party land is required.

The applicant states in their planning statement that the works are unreasonable due to their cost and their strategic nature. The applicant considers that it is unreasonable to impose these works on a single development. The Highways Agency's consultation response states that the improvements to the roundabout were not required from a single development but from both the industrial and the residential development opposite.

In addition to this, the original outline residential application anticipated a development in the region of 250 dwellings whereas 424 dwellings have been permitted under the subsequent reserved matters applications.

It is therefore considered that the condition remains reasonable as the scheme proposed was based on that suggested through the outline permission upon which the Inspector deemed it reasonable to impose the condition. At no time until now has the applicant challenged the need for the improvements.

(iii) Precise

The Circular states that a condition which is not sufficiently precise for the applicant to ascertain what must be done to comply with it is ultra vires and cannot be imposed.

The applicant's Planning Statement states that the condition is neither precise nor clear as the plan referred to in the condition did not form part of the application but part of the 1999 application submitted by a different party. The applicant considers this makes it difficult to ascertain what must be done to comply with the condition.

It is considered that the condition makes reference to a plan that was submitted for the application site and is publically available. The plan was referenced in previous permissions and was included in the committee report prior to the issue of decision. The applicant had the opportunity then to request any clarity they required on the condition.

The condition is worded to require the works shown on the plan to be completed 'or such other similar schemes have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency'. This gave the applicant opportunity to explore other schemes and enable discussions with both the Local Planning Authority and the Highways Agency. It is therefore considered that the wording of the condition is precise and the works required are clear.

(iv) Relevance to the development permitted

The Circular states that a condition should fairly and reasonably relate to the development to be permitted. The applicant's Planning Statement states that as the roundabout is half a mile from the development it has limited relevance to the development permitted particularly given the submitted reports which suggest existing junction capacity up until 2019.

The Highways Agency's comments state that the distance to the roundabout is not considered to be the main determinant of relevance. The Highways Agency is confident that the impacts created by the industrial development and associated housing development are significant enough to require the improvements to the roundabout.

It is considered that the scale and nature of development in addition to proximity should be considered when determining relevance. In this instance, the improvements to Dodwells roundabout are considered relevant to the industrial permission given the scale and nature of the development and cumulative impact with residential development, the proximity of the roundabout and the application history which highlights the necessity of the works to overcome the Highways Agency's original holding objection.

### Conclusions

It is considered that the works to the roundabout were required as part of the 1999 outline application for industrial and residential development. The condition was agreed by Crest, the Highways Agency and the Borough Council and imposed by the Inspector in his decision notice. If this had not been the case, planning permission would not have been granted. The residential development was subsequently developed at a much greater scale than initially anticipated which it is considered would further the need for the roundabout improvements. The subsequent detailed permissions for the industrial development superseded the outline permission and therefore the condition was re-imposed. It is considered that as the detailed applications for industrial development were based on that suggested at outline stage, and as the works had not already been completed through the residential approval, a condition to ensure the roundabout improvements were completed was necessary.

The applicant's statement that the submitted reports demonstrate that the works were not required in 2005 and are not currently required is disputed by the Highways Agency who has directed that planning permission is not granted.

It is further considered that the condition as imposed meets the requirements of Circular 11/95: The Use of Conditions in Planning Permission in that it is necessary, reasonable, precise and relevant to the development. Therefore this application to remove the condition cannot be permitted and is recommended for refusal. This significant development requires these mitigation works, these provide the right level of infrastructure for the proper planning of the area.

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

#### **Reasons:-**

- 1 In the opinion of the Local Planning Authority the removal of condition 21 of permission 05/00615/FUL would lead to a detrimental impact to the free flow of traffic on the A5 Trunk Road which would be contrary to Policies BE1 and IMP1 of the adopted Hinckley and Bosworth Local Plan.

**Contact Officer:-** Philip Metcalfe Ext 5740

**Item:** 02

**Reference:** 09/00343/CONDIT

**Applicant:** Crest Nicholson Midlands Ltd

**Location:** Land Adjacent To 391 Coventry Road Hinckley Leicestershire

**Proposal:** REMOVAL OF CONDITION 13 OF PLANNING PERMISSION 07/01150/FUL TO ALLOW OCCUPATION WITHOUT CARRYING OUT IMPROVEMENTS ATTACHED TO PLANNING PERMISSION 99/00048/OUT

**Introduction:-**

Following the previous item on this agenda, this item seeks the removal of the identical condition imposed on the subsequent permission for industrial/commercial development, 07/01150/FUL. The details and case submitted by the applicant largely replicate the previous application therefore the details below are similar to the previous item.

The application seeks to remove condition 13 attached to planning permission 07/01150/FUL which permitted a mixed commercial development comprising of B1, B2, B8 and sui generis uses. The condition is identical to that imposed on 05/00615/FUL and states:

No more than 2500 square metres of floorspace shall be occupied until the improvements shown on TPK Drawing No 12088/14 Revision B, attached to planning permission 99/00048/OUT, or such other similar schemes have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency and have thereafter been substantially completed.

The improvements shown on the relevant drawing relate to the works to the Dodwell's roundabout. The applicant seeks removal of the condition on the grounds that it is not necessary, reasonable or precise in planning terms and is not relevant to the development.

The application has been accompanied by a S-Paramics Traffic Modelling Report, an Updated Capacity Assessment and a Planning Statement which concludes that "condition 13 of the planning permission is ultra vires as it fails to meet the tests of necessity, precision and reasonableness and is not relevant to the development not only at the date of granting of permission but also at today's date."


**History:-**

07/01150/FUL	Mixed Commercial Development Comprising B1, B2, B8 and Sui Generis Uses	Approved	12.12.07
07/00529/FUL	Mixed Commercial Development Comprising B1, B2, B8 and Sui	Dismissed at Appeal	09.09.08



Generis Uses

05/00615/FUL	Erection of 10 Commercial Units	Approved	11.08.05
05/00216/REM	Reserved Matters Application For Ten Commercial / Industrial/ Office Units.	Withdrawn	24.05.05
03/01110/CONDIT	Variation of Condition XVII of Application 99/00047/OUT to Allow 160 Dwellings to be Occupied Before A5 Highways Works are completed.	Approved	04.12.03
03/00411/CONDIT	Variation of Condition 3 of Application 99/00048/OUT to Allow Extension of Time for Submission of Reserved Matters Application	Approved	09.06.03
99/00048/OUT	Industrial development for B1 B2 and B8 Uses.	Appeal Allowed on	09.05.00
99/00047/OUT	Residential Development and Associated Infrastructure Public Open Space and Landscaping	Appeal Allowed on	09.05.00

		
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**Consultations:-**

No objection has been received from:-

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

The Cyclists Touring Club have raised concerns regarding the removal of the condition.

Director of Highways, Transportation and Waste Management (Highways) raises no comment on the application as the condition was recommended by the Highways Agency and relates to the Trunk road network.

The Highways Agency have directed that the application should not be permitted. They comment that their own modelling work is in variance with the applicants submitted model which demonstrates that the condition is unnecessary, that they consider the condition reasonable due to the cumulative impact of both the residential and industrial applications and that the condition is precise as there is a clear link to the original permission, the drawing reference is specific and the drawing is available for public inspection. The Agency's comments conclude that they are keen to maintain a constructive dialogue with the Council and the Developer on the most appropriate way forward but direct planning permission should not be granted until these matters are resolved.

A site notice and press notice were displayed and neighbours notified. At the time of writing this report no comments have been received from these.

### **Policy:-**

#### National Policy

Circular 11/95 Use of Conditions in Planning Permissions sets out six tests which conditions should be in accordance with if they are to be imposed. These are that the condition should be necessary, reasonable, enforceable, precise and relevant to both planning and the development itself.

#### Local Plan Policy

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

### **Appraisal:-**

The main considerations with regards to this application are the previous application history and test of conditions.

#### The Previous Application History

The application site was subject to an outline application for industrial development in 1999 (99/00048/OUT). This was taken to appeal on grounds on non-determination and heard at a joint public inquiry with an application for residential development opposite the application site on Coventry Road (99/00047/OUT). Both applications were submitted by Crest Strategic Projects Ltd.

The appeal was allowed subject to a number of conditions. Of relevance to this application are two conditions included at the request of the Highways Agency. Firstly, condition XVII of permission 99/00047/OUT relating to the residential development. This requires the improvements shown on TPK drawing no. 12088/14 Revision B or such other similar schemes that have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency and the Highways Authority to have been substantially completed before no more than 100 dwellings have been occupied or 50 dwellings if the industrial development has been commenced.

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The industrial development application was subject to a variation of condition application to extend the time allowed for the reserved matters details to be submitted in 2003 (03/00411/CONDIT).

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The residential scheme has now been completed under permissions 01/00552/REM and 03/00381/REM which have allowed a total of 424 dwellings to be constructed.

The industrial site was subject to a detailed application in 2005 for the erection of 10 commercial units (05/00615/FUL). The consent was subject to a condition based on the condition imposed by the Inspector requiring improvements to the Dodwells roundabout with the only alteration being the removal of the reference to the residential development which by then was well under development. The industrial site was then subject to a further application in 2007 (07/01150/FUL) which is now being implemented. The condition imposed in 2005 was also applied to the 2007 permission. This application seeks the removal of the condition applied to the 2007 permission while the previous item on the agenda seeks the removal of the condition from the 2005 permission.

While the residential development is completed and the industrial development has been begun the required works to Dodwells roundabout have not been commenced.

### Tests of Conditions

Circular 11/95 sets out that conditions should be necessary; relevant to planning; relevant to the development being permitted; enforceable; precise; and reasonable in all other respects.

The applicant has set out in their planning statement that they consider the imposition of the condition was not necessary, reasonable or precise and was not relevant to the development. These will be addressed in turn.

#### (i) Necessary

The circular sets out that in order for a condition to be deemed necessary Authorities should ask themselves whether planning permission would have been refused if the condition was not imposed. The condition was originally suggested by the Highways Agency on the 1999 applications. This enabled them to withdraw their holding objection to those schemes. The inclusion of the conditions were agreed by both parties as part of the Public Inquiry into the 1999 applications and were imposed by the Inspector on the subsequent decision notices.

While the Highways Agency were not consulted on the 07/00150/FUL application, as the application site was not within their consultation area, it was considered that the condition remained necessary as the scheme proposed was based on that suggested at outline stage and would along with the residential development that had at the time been commenced

have an impact on the road network and thus require the improvements as shown on the drawing.

The applicant states in their Planning Statement that the submitted S-Paramics and Updated Capacity Assessment demonstrate that the improvement required by condition 13 were no longer necessary in highways terms in 2007 and remain unnecessary at the date of this application. The consultation response from the Highways Agency states that the modelling work they have undertaken is at variance with the view of the applicant and hence they have directed that the application should not be permitted.

The works are therefore considered to be necessary at the time of the 2007 application and remain necessary now.

(ii) Reasonable

The circular states that a condition may raise doubt about whether the person carrying out the development to which it relates can reasonably be expected to comply with it. The circular continues to state that one case where this may occur is where a condition is imposed requiring the carrying out of works on land not under control of the applicant. The works proposed on plan TPK Drawing No 12088/14 Revision B as mentioned within the condition is entirely within the highway and therefore it is within the ability of the applicant to have these works carried out with the agreement of the Highways Agency. No third party land is required.

The applicant states in their planning statement that the works are unreasonable due to their cost and their strategic nature. The applicant considers that it is unreasonable to impose these works on a single development. The Highways Agency's consultation response states that the improvements to the roundabout were not required from a single development but from both the industrial and the residential development opposite.

In addition to this, the original outline residential application anticipated a development in the region of 300 dwellings whereas 424 dwellings have been permitted under the subsequent reserved matters applications.

It is therefore considered that the condition remained reasonable as the scheme proposed was based on that suggested through the outline permission upon which the Inspector deemed it reasonable to impose the condition. This would have an impact on the road network requiring the improvement works to be undertaken.

(iii) Precise

The Circular states that a condition which is not sufficiently precise for the applicant to ascertain what must be done to comply with it is ultra vires and cannot be imposed.

The applicant's Planning Statement states that the condition is neither precise nor clear as the plan referred to in the condition did not form part of the application but part of the 1999 application submitted by a different party. The applicant considers this makes it difficult to ascertain what must be done to comply with the condition.

It is considered that the condition makes reference to a plan that was submitted for the application site and is publically available. The plan was referenced in previous permissions and was included in the committee report prior to the issue of decision. The applicant had the opportunity then to request any clarity they required on the condition.

The condition is worded to require the works shown on the plan to be completed 'or such other similar schemes have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency'. This gave the applicant opportunity to explore other schemes and enables discussions with both the Local Planning Authority and the Highways Agency. It is therefore considered that the wording of the condition is precise and the works required are clear.

(iv) Relevance to the development permitted

The Circular states that a condition should fairly and reasonably relate to the development to be permitted. The applicant's Planning Statement states that as the roundabout is half a mile from the development it has limited relevance to the development permitted particularly given the submitted reports which suggest existing junction capacity up until 2019.

The Highways Agency's comments state that the distance to the roundabout is not considered to be the main determinant of relevance. The Highways Agency is confident that the impacts created by the industrial development and associated housing development are significant enough to require the improvements to the roundabout.

It is considered that the scale and nature of development in addition to proximity should be considered when determining relevance. In this instance, the improvements to Dodwells roundabout are considered relevant to the industrial permission given the scale and nature of the development and cumulative impact with residential development, the proximity of the roundabout and the application history which highlights the necessity of the works to overcome the Highways Agency's original holding objection.

### Conclusions

It is considered that the works to the roundabout were required as part of the 1999 outline application for industrial and residential development. The condition was agreed by Crest, the Highways Agency and the Borough Council and imposed by the Inspector in his decision notice. The residential development was subsequently developed at a much greater scale than initially anticipated which it is considered would further the need for the roundabout improvements. The subsequent detailed permissions for the industrial development superseded the outline permission and therefore the condition was re-imposed. It is considered that as the detailed applications for industrial development were based on that suggested at outline stage, and as the works had not already been completed through the residential approval, a condition to ensure the roundabout improvements were completed was necessary.

The applicant's statement that the submitted reports demonstrate that the works were not required in 2007 and are not currently required is disputed by the Highways Agency who has directed that planning permission is not granted.

It is further considered that the condition as imposed meets the requirements of Circular 11/95: The Use of Conditions in Planning Permission in that it is necessary, reasonable, precise and relevant to the development. Therefore this application to remove the condition cannot be permitted and is recommended for refusal. This significant development requires the mitigation works, to provide the right level of infrastructure for the proper planning of the area.

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

**Reasons:-**

- 1 In the opinion of the Local Planning Authority the removal of condition 13 of permission 07/01150/FUL would lead to a detrimental impact to the free flow of traffic on the A5 Trunk Road which would be contrary to Policies BE1 and IMP1 of the adopted Hinckley and Bosworth Local Plan.

**Contact Officer:-** Philip Metcalfe Ext 5740

**Item:** 03

**Reference:** 09/00385/CONDIT

**Applicant:** Mrs S Robinson

**Location:** 12 Mansion Street Hinckley Leicestershire LE10 0AU

**Proposal:** VARIATION OF CONDITIONS NO'S 5 AND 15 OF PLANNING PERMISSION 07/00648/FUL RELATING TO PARKING FACILITIES

**Introduction:-**

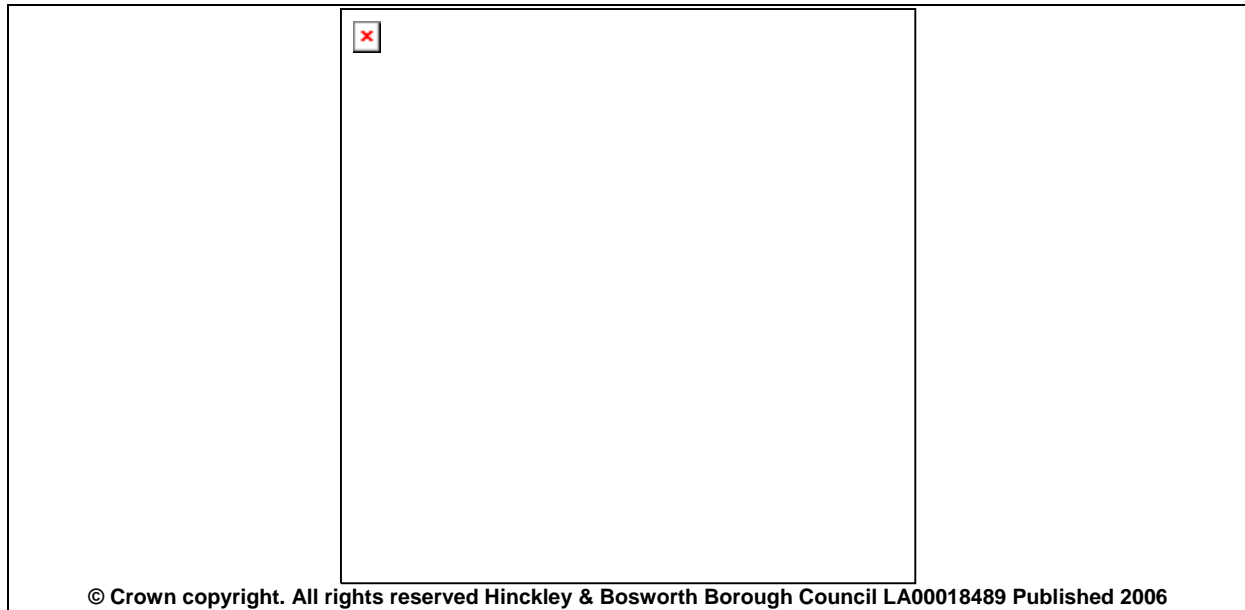
This application seeks planning permission to vary conditions 5 and 15 of planning permission 07/00648/FUL that granted planning permission for demolition of existing club and erection of fourteen flats. Condition 5 lists the amended plans including plan 15B which details the car parking layout. Condition 15 states that 'The car parking facilities and turning areas as shown on plan reference 03 120 15B shall be provided before the first occupation of any unit hereby permitted...'.

Due to unforeseen construction issues it has not been possible to excavate to the extent that was required to provide space for the original 18 spaces. It is proposed to amend the layout and turning spaces to provide 14 car parking spaces, which equates to 1 per flat.

The site is surrounded to the north east by a short stay public car park, to the south east a public house and to the south and north west residential properties. The level of the site rises to the north west towards the properties of Weavers Court. The building works have been complete apart from the internal fittings which are currently being undertaken.

**History:-**

07/00795/CON	Demolition of existing building	Approved	04.09.07
07/00648/FUL	Demolition of existing club and erection of 14 flats	Approved	03.09.07
04/01315/FUL	Erection of 15 apartments and associated car parking	Withdrawn	10.01.05
75/00255/4M	Construction of new entrance and screen	Approved	22.04.75



### **Consultations:-**

The Director of Highways, Transportation and Waste Management (highways) has commented that a development of 14 flats would lead to a demand for approximately 19.6 spaces. This scheme is therefore likely to lead to car parking overspilling onto the local road network. However, he had suggested that if it is possible to ensure each parking space will permanently remain unallocated to any particular dwelling the proposal would be acceptable.

Site notice and Press notice were displayed and neighbours notified.

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

### **Policy:-**

#### Central Government Guidance

Planning Policy Guidance 13, Transportation sets out the Government's objectives of, promoting more sustainable transport choices for both people and moving freight, promote accessibility to jobs, shopping, leisure and other services by public transport, walking or cycling and reducing the need for travel especially by car. The guidance sets out how the transport network should be a consideration in land use planning to achieve the above objectives.

#### Regional Planning Policy

Regional Spatial Strategy 8: East Midlands sets out the regional planning objectives in terms of housing numbers and strategic objectives for the region. The relevant policies relating to this application are:

Policy 43 - Regional Transportation Objectives which outlines several objectives that development in the region should adhere to including supporting sustainable development in particular within urban centres and improving air quality by encouraging a modal shift away from the private car.

Policy 45 - Regional Approach to Traffic Growth Reduction seeks the co-operation of the different statutory bodies to reduce the need to travel by car as much and promote alternative forms of transport.

#### Local Plan Policy

The application is located within the Hinckley Town Centre Conservation Area and Hinckley Settlement boundary as defined within the adopted Hinckley and Bosworth Local Plan.

Policy BE1 considers the design and siting of proposals and ensures that there is adequate highway visibility for road users and adequate off street parking.

Policy T5 Highway Design and Vehicle Parking Standards requires development that would affect the highway to have regard to the Highway parking Standards as set out in the current Leicestershire County Councils 'Highway Requirements for Development'.

Hinckley Town Centre Strategic Transport Development Contributions Supplementary Planning Document is a transport assessment which provides and provides budgets for the highway and transportation measures required within the town centre.

#### **Appraisal:-**

The main consideration with regards to this application is the effect of the reduced number of car parking spaces would have on the highway safety of surrounding road network.

#### Impact on the Highway

The application proposes a reduction of car parking spaces from 18 to 14. The spaces would be contained within a parking court located to the rear of the building with access through a controlled security system. This application now proposes one space per two bedroomed flat. The Director of Highways Transportation and Waste Management has raised concerns regarding the level of parking now proposed and the future ownership of the parking spaces. However no objection has been formally submitted, only a request for a condition or legal agreement ensuring that the parking remains for the sole use of occupiers of the flats. It is considered that a condition to this effect can be imposed.

The site is located within close proximity to the town centre and a range of employment, leisure and shopping services. The town centre also has good public transport connections to Leicester, Coventry and Nuneaton via train and bus links. Paragraph 17 of PPG 13 suggests that parking standards within planning policy 'should not be expressed as a minimum standard'. Local Authorities 'should revise their parking standards to allow for significant lower levels of off street parking provision, particularly for development in locations, such as town centres, where services are readily accessible by walking, cycling or public transport'. It is therefore the Government's intention that where served by services and public transport a lower level of parking can be acceptable. Consequently, it is considered that the revised parking plan seeking one space per residential unit is acceptable in this location. However, in line with the SPD on transport, contributions are required where there is a shortfall of parking, further discussions are taking place regarding this issue and will be updated as a late item.

**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 location of the development within an area well served by public transport and other services, the revised parking layout would provide adequate off street parking and therefore would be in accordance with the development plan.

Hinckley & Bosworth Borough Council Local Plan (2001) :- T5

- 1 This permission shall relate to the variation of conditions 5 and 15 of planning permission 07/00648/FUL dated 3rd September 2007 a copy of which is appended hereto and shall be read with this permission. The variation relates to the parking layout and provision. Conditions 1-4, 6-14 and 16-19 attached to planning permission 07/00648/FUL remain unaltered and must be complied with.
- 2 This permission relates to the application as revised by amended plan 18B, 20A, and 21 attached to planning permission 07/00648/FUL, received by the Local Planning Authority on 10 August 2007.
- 3 The turning area and parking facilities as shown on plan reference 03/120/62A shall be provided, surfaced in a hard bound porous material and marked out prior to first occupation of any unit. Once provided the parking spaces shall hereafter permanently remain available for the occupiers of the units.

**Reasons:-**

- 1 To define the permission.
- 2 For the avoidance of doubt
- 3 In the interests of highway safety and to ensure the adequate off street parking is provided for the development in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

**Notes to Applicant:-**

- 1 As from 6<sup>th</sup> 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 website [www.planningportal.gov.uk](http://www.planningportal.gov.uk).

**Contact Officer:-** Sarah Humphries Ext 5680

**Item:** 04

**Reference:** 09/00421/TEMP

**Applicant:** Mr C Klenk

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

**Proposal:** TEMPORARY OCCUPATIONAL DWELLING

## **Introduction:-**

This is a resubmitted scheme similar to a previously refused application.

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

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

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

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

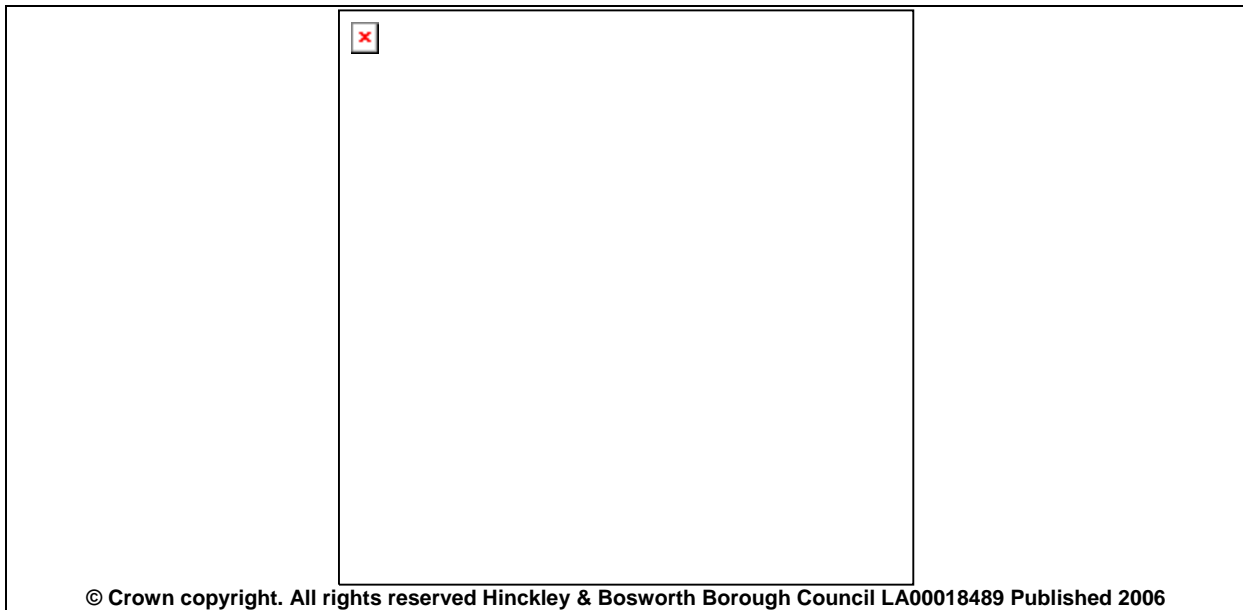
An appraisal in support of the application, including a business plan has been submitted by the applicant. This concludes that there is an essential functional requirement for the provision of temporary accommodation on the holding and that if the business continues to develop as outlined, the financial test for an eventual permanent dwelling will be met, therefore the business is planned on a sound financial basis.

## **History:-**

09/00246/TEMP	Temporary occupational dwelling at boarding kennels	Refused	06.05.09
08/01053/FUL	Change of use from implement store to boarding kennels	Approved	18.12.08
08/00542/CONDIT	Continued use of land and buildings without compliance with condition 4 of planning permission 06/01048/FUL condition 8 of planning permission 99/00920/FUL and condition 3 of planning permission 98/00544/FUL	Approved	25.07.08
06/01048/FUL	Erection of Implement store and stable block	Approved	13.11.06
03/01102/FUL	Erection of stable block, boarding	Refused	03.12.03

kennels poly tunnels and disabled toilet extension to stable, to provide store, excavation of pond and temporary siting of mobile home (resubmission)

03/01081/CONDIT	Variation of condition 3 of application 98/00544/FUL and condition 8 of application 99/00920/FUL to remove the limitations on personal use (re-submitted)	Refused	03.12.03
02/01322/CONDIT	Variation of planning condition 3 of application 98/00544/FUL and condition 8 of 99/00920/FUL resubmission	Withdrawn	06.01.03



### Consultations:-

Borough Council's Agricultural Appraisal Consultant advises that there is no agricultural or equestrian support for the proposed temporary dwelling as the Applicant's existing dwelling in the village of Earl Shilton, complies with paragraphs 1, 3 (iv) & 12 (iv), of Annex A to PPS7.

No objections have been received from:-

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

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

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

**Policy:-**

Central Government Guidance

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

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

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

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

## Local Plan Policy

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

Policy BE1 seeks to safeguard and enhance the existing environment and states that planning permission will be granted where the development:- complements or enhances the character of the surrounding area with regard to scale, layout, mass, design and materials; has regard to the safety and security of individuals and property; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; is not adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; does not adversely affect the occupiers of neighbouring properties and incorporates landscaping to a high standard.

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

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

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

Policy NE12 states that proposals for development should make provision for further landscaping where appropriate.

Policy NE14 requires satisfactory arrangements to be made for the disposal of foul sewage, trade effluent and surface water.

### **Appraisal:-**

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

### Principle of Development

One of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time workers to live at, or in the immediate vicinity of, their place of work. PPS7, Paragraph 15 of Annex A relates to "Occupational Dwellings" and states that there may be instances where special justification exists for new isolated dwellings associated with other rural-based enterprises. In these cases, the enterprise itself, including any development necessary for the operation of the enterprise must be acceptable in planning terms and permitted in that rural location, regardless of the consideration of any proposed associated dwelling. In

relation to equine uses, paragraph 32 of PPS 7 states that horse riding and other equestrian activities are popular forms of recreation that can fit in well with farming activities and aid the diversification of rural economies. In some parts of the country, horse training and breeding businesses play an important economic role. This application is for a temporary mobile home associated with an equine establishment and dog kennels, which are both considered activities acceptable within the countryside. It therefore falls to consider whether the development meets the tests within Annex A of PPS7.

### Criteria of Annex A, PPS7

#### Functional Test

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

- Specialist care and supervision, including the administration of medication, catering for special dietary requirements or illnesses and monitoring for "colic" in horses, which often occurs during the night and can be fatal.
- Supervision against theft, which the agent identifies as increasing in the UK, in respect of dogs, horses and fish. In respect of security, Annex A acknowledges that this is a material consideration that may contribute on animal welfare grounds to the need for a new dwelling. It cannot, however, be the sole justification for a new dwelling.
- To prevent mortality caused by numerous sources, as this would be unacceptable for family pets such as horses and dogs. In respect of fish, supervision will ensure that oxygen levels don't fall leaving the fish vulnerable to suffocation, and to ensure that the free range chickens would be securely housed at night to reduce their susceptibility to predators.
- In respect of commercial kennels, in order for a licence under the Animal Boarding Establishment Act 1963 to be granted, on site accommodation is required to ensure 24hr supervision and care is provided.

Although justification has been provided as to why 24hr supervision is necessary, officers are not convinced that the issues stated warrant continual on site presence by the applicant. In respect of monitoring the horses for colic, this can occur at any point of the day, as with any illness, and if managed would not prove fatal. If the animals, which are boarding or at livery, are properly cared for, there is no reason why mortality rates would be affected whether or not there is a continual presence. In respect of the fishing enterprise, this is not of a scale to warrant 24hr supervision, and once the chickens are securely housed, there is no need for further checking throughout the night. Accordingly it is felt that the dwelling would be more for the convenience of the applicants, than the welfare of the animals. It has been calculated that the agricultural and equestrian aspect of the enterprise have a labour requirement of 0.92 of a full-time person. As boarding kennels are not considered a use which complies with PPS7, their need has not been factored into the assessment of functional need. Accordingly the application does not fulfil the functional need as outlined by PPS7.

#### Other Suitable Accommodation

In addition to identifying a functional need, it is also necessary to consider whether that need can be accommodated by existing dwellings on the holding, or by any other available accommodation within the locality. Although there is no other dwelling on site, the applicant lives on Equity Road East, Earl Shilton, and his property is less than a mile from the site. This complies with paragraphs 1, 3 (iv) and 12 (iv) of Annex A to PPS7. Furthermore, it is considered that existing security and monitoring could be upgraded, which would overcome most of the problems the owner currently states he suffers, and would not require the presence of an on-site dwelling.

### Financial Test

The agent has provided a financial appraisal for each of the different uses on site in order for the financial viability of the holding to be assessed. The financial projections are highly dependant on the income from the 20 dog boarding kennels. As there is only permission for 10 kennels the income and projected profit for years 2 and 3 are unjustified, and thus would not sustain the costs of running a permanent dwelling in the future. Therefore the enterprise would be unable to pass the financial test as set out in Annex A to PPS7. Paragraph 13 of Annex A to PPS7 states "Authorities should not normally grant successive extensions to a temporary permission over a period of more than three years, nor should they normally give temporary permissions in locations where they would not permit a permanent dwelling." It is therefore clear that if permission for a permanent dwelling is unlikely to be forthcoming, then a temporary permission should not be issued in the first instance.

Based on the above information, it is clear that there is no agricultural or equestrian support for the proposed temporary dwelling, and the applicant's existing dwelling in the village of Earl Shilton, complies with paragraphs 1, 2 (iv) and 12 (iv) of Annex A to PPS7. Therefore it is considered that there is insufficient support for a temporary "Occupational" dwelling on the site.

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

The Borough Council's Agricultural Appraisal Consultant advises that there is no agricultural or equestrian support for the proposed temporary dwelling and refers to two recent appeal decisions which are relevant when considering this proposal.

### Siting and Design

Although small scale and temporary in nature, as no functional or financial need for the dwelling has been proven, the development will constitute new development in the countryside and will accordingly be contrary to the intentions of Policy NE5 of the adopted Hinckley and Bosworth Local Plan resulting in a detrimental impact on the character and appearance of the countryside.

### Conclusion

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

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

**Reasons:-**

- 1 In the opinion of the Local Planning Authority the proposed occupational dwelling does not pass the functional or financial tests set out in Paragraphs 4, 8 and 15 of Annex A to Planning Policy Statement 7. The proposal therefore represents an unwarranted and unacceptable intrusion of residential development in an unsustainable location in the countryside to the detriment of the character and appearance of the landscape and visual amenity. The proposal is therefore contrary to policies BE1, RES12 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance: Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3: 'Housing', and Planning Policy Statement 7 'Sustainable Development in Rural Areas'.
- 2 The approval of this proposal would set a precedent for the consideration of further applications of a similar nature, to which the Local Planning Authority would also object, but which would consequently be difficult to resist and could lead to a proliferation of new residential development in the countryside. The proposal is contrary to Policies BE1, RES12 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance: Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3 'Housing', and Planning Policy Statement 7 'Sustainable Development in Rural Areas'

**Contact Officer:-** Eleanor Shaw Ext 5691

**Item:** 05

**Reference:** 09/00431/FUL

**Applicant:** Mrs R Wright

**Location:** 7 Leicester Road Hinckley Leicestershire LE10 1LW

**Proposal:** ERECTION OF A GARAGE

**Introduction:-**

This is a full application for the erection of a triple garage with a storage area above, at 7 Leicester Road, Hinckley.

The application property was originally constructed as a residential Victorian detached property situated at the beginning of a row of Victorian terraces. The property has since been converted into business premises in which an accountants and a shoe design (A2) business operate. The shoe design business is Antoinette Designs to which this application relates.



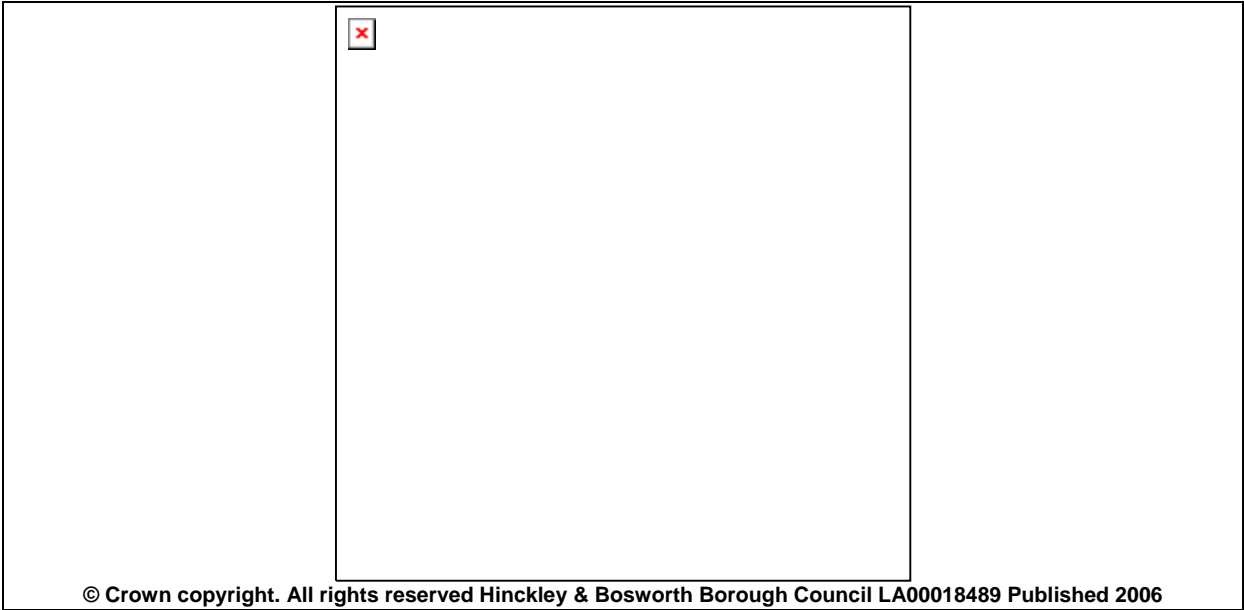
The applicant currently has a stockpile of shoes which is required for the operation of the businesses however space within the existing premises for storage is limited. The applicant requires additional storage and room to work and intends to use the upper floor of the garage to store these shoes.

The eastern elevation of the ATS building standing to the west of the site forms a long boundary wall along the majority of the property’s rear garden length. 11 Wood Street Close stands to the rear and 9-15 Leicester Road are a row of terraced properties to the east of the site.

The proposed garage measures 8.4 metres wide, 7.3 metres deep and 7.5 metres high, and is located within the rear garden. The garage will be situated 21 metres from the property’s rear elevation, set off from ATS’s western boundary wall by 0.6 metres and 2.5 metres off the boundary with No 9. Vehicular access to the garage will be via the existing access that currently leads to the rear car park of the property.

**History:-**

02/00348/FUL	Extension to studio	Approved	11.06.02
98/00958/FUL	Erection of two dwellings	Refused	06.01.99
98/00678/FUL	Erection of two dwellings	Refused	11.11.98
87/00483/4	Change of use of office and Storage	Approved	30.06.87
83/00733/4	Use of premises for Residential storage and office purposes	Approved	27.09.83



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**Consultations:-**

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

Five letters of objections have been received raising the following concerns:-

- no need for a triple garage/annex associated with the business use
- inadequate access
- land should be retained as garden
- no room to maintain new building
- overlooking of rear windows of residential properties
- excessive size and height will over shadow gardens
- increased noise and disturbance from use of garages
- traffic dangers
- potential damage to trees in adjacent garden
- devaluation of property
- potential fire hazard
- concern over deliveries to storage element
- suggests flat roof design would be more acceptable
- questions long term aspirations for building
- residential building on the site refused on previous occasions.

## **Policy:-**

### Local Plan Policy

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

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

Policy T5 requires the application of highway design standards set out in the current addition of Leicestershire's County Council's "Highway requirements for development" for new development proposals. It also requires the Authority to apply parking targets set out in Appendix D of the Local Plan.

## **Appraisal:-**

The main considerations are the design of the scheme, its impact on the character of the area, neighbours amenity, parking and highway safety.

### The Principle

The proposed garage is located within the settlement boundary within the curtilage of an existing business on the edge of Hinckley Town Centre. The garage will provide parking and storage for the existing premises and is considered acceptable in principle.

### Design and impact on character of the area

The proposed garage will utilise materials on the external elevations to match the existing Victorian properties including a welsh slate roof. The garage includes vertically emphasised windows with cill and header details to complement the existing features of 7 Leicester Road. The height of the garage at 7.5 metres is large for a garage however the ridge line of the garage will not exceed that of the adjacent ATS building or 7 Leicester Road. Due to the lower ridge line the garage would only be partially visible from Leicester Road through the 3 metre gap created by the existing access. This garage although large would not be visually prominent from the street scene and with the illustrated detailing would not be detrimental to the character of the area.

One objector suggested amending the scheme to provide the garage with a flat roof to reduce the buildings massing and impact on neighbouring properties. A flat roof to the garage would represent poor design and would reduce the longevity of the building and would be an unacceptable design feature. It would also not provide the accommodation required.

### Neighbours Amenity

The proposed garage includes one first floor and two ground floor windows on the southern elevation facing toward 11 Wood Street Close. The rear elevation of this property is angled away from the applicants' garden therefore the windows will not directly face each other. Furthermore, the rear elevation of the garage will be separated from this property by a distance of approximately 25 metres which is adequate to comply with policy and avoid any overlooking and overshadowing effect.

The garage would be set off the boundary with 9 Leicester Road by 2.5 metres and would be situated 28.5 metres south of the rear elevations of 9-15 Leicester Road. Due to the garages position, orientation and massing a middle section of the garden of 9 Leicester Road may be partially overshadowed during mid to late afternoon. This impact is lessened by the existing ATS building which stands higher than the garage and already has an overshadowing effect on 7 and 9 Leicester Road. In addition because the rear garden of this adjacent property is long, at least the first 15 metres of amenity space closest to the dwelling would be unaffected by the development. Furthermore this area is bounded by built form of No 7 and a leylandi hedge. The garage includes a ground floor window and door on the eastern elevation, but due to the existing boundary hedge there will not be any overlooking from these to the neighbouring garden. A first floor window is also included on the northern elevation facing directly toward the applicants rear elevation. Again, the leylandi hedge will obscure any views to neighbouring properties and even if removed the distance of 28.5 metres is in excess of the required threshold of 25 metres between principal windows. As such it is considered that the proposal will not have an adverse impact on the amenity of neighbours.

### Parking and Highway Safety

The section of rear garden closest to the property is currently used as a parking area with a gravel surface, used by employees of the businesses on site. The site has 8 allocated car parking spaces and this scheme proposes to rearrange five of those spaces along the eastern site boundary with the remaining three spaces situated within the triple garage. This scheme is not proposing to create any additional parking and the expected level of traffic into the site is not expected to increase therefore no intensification in the use of the access and no additional highway safety concerns.

Objections received have raised concern over increased noise and disturbance from the use of the garage. The garage will be positioned further into the garden and stand further from the rear of adjacent properties and with no extra traffic expected the development will not

cause increased noise and disturbance. In addition these businesses on site operate during normal working hours and any disturbance would be limited to daytime hours. The shoe storage relates to the existing business premises only and deliveries to and from the garage are not expected or necessary.

### Ecology

The erection of the garage in the garden of 7 Leicester Road will involve the removal of at least one apple tree however it is of little ecological value. Two mature trees stand on the rear boundary of 9-15 Leicester Road however the garage will be positioned at least 25 metres from these trees which is an adequate separation distance to prevent harm to the trees root system.

### Other Issues

Planning permission has previously been refused for separate dwellings within the rear garden of the property (98/00958/FUL & 98/00678/FUL) and objectors have raised concerns relating to the use of the proposed building and any possible change of use to a separate dwelling. These applications were refused on the basis of increased noise and disturbance, neighbours amenity, inadequate access and out of character. The previous refusals have highlighted that the rear garden of this site is not suitable for an additional dwelling and any conversion of this garage into a separate dwelling would require a separate application. However to ensure the new garage is used in connection with the property a condition will be placed on the application ensuring the building is only used for storage and the parking of motor vehicles in relation to 7 Leicester Road.

Objectors have raised concerns regarding the potential fire hazard created through the storage of shoes in the building and the devaluation of their properties due to this development. These concerns are not material planning considerations and as such will not form part of the assessment for this application.

This site although residential in appearance operates as a business premises and a large amount of amenity space is not required. In addition garden land is classified as 'brownfield' and as such would be regarded as potential land for development, be that for residential or commercial development.

An objector has commented that with only a 1 metre gap between the side elevation of the garage and boundary with 9 Leicester Road there would not be adequate space for construction and maintenance of the garage without encroaching on the adjacent garden. The submitted plans illustrate a 2.5 metre gap and a note to applicant will be placed on the decision advising of the Party Wall Act.

Overall the proposed garage with storage above would not be prominent in the street scene and would not harm the character of the area. No additional traffic is expected as such there will be no intensification of the existing access and the proposal would be acceptable in terms of parking and highway safety. The garage includes characteristic features of 7 Leicester Road and would be of an acceptable design with a condition requiring materials to match.

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

**Summary of Reasons for Recommendation and Relevant Development Plan Policies :**  
**Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission,**

**the proposed development would be in accordance with the development plan and would not harm the character or appearance of the area, the living conditions of neighbouring occupiers or parking and highway safety.**

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The materials to be used on the external elevations of the proposed garage shall match the corresponding materials of 7 Leicester Road unless previously agreed in writing with the Local Planning Authority.
- 3 The garage hereby approved shall be used for the purposes of parking motor vehicles and storage in connection with 7 Leicester Road only and shall remain so at all times thereafter.

**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 amenity of neighbouring properties and highway safety and parking to accord with Local Plan Policies T5 and BE1.

**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](http://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 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.
- 6 Any new access drives, parking turning areas, paths etc. should be constructed in 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.

- 7 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.
- 8 List of plans used in the determination of this application:-  
Drawing number- W042009.1, roof height details, Block plan and site location plan

**Contact Officer:-** David Kiernan Ext 5898

**Item:** 06  
**Reference:** 09/00441/COU  
**Applicant:** Costa Coffee  
**Location:** 25 Castle Street Hinckley Leicestershire LE10 1DA  
**Proposal:** CHANGE OF USE TO A COFFEE SHOP (MIXED A1/A3 USE)

**Introduction:-**

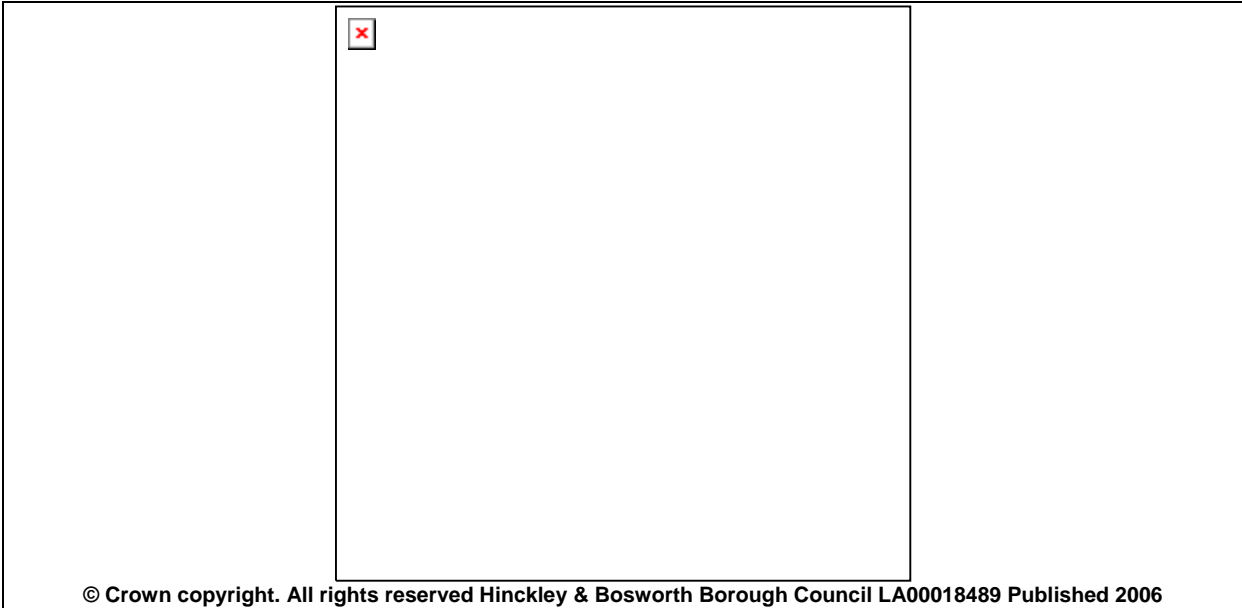
Planning permission is sought for the change of use of 25 Castle Street Hinckley from class A1 (retail) to a mixed class A1/A3 use (retail/café). The application site is situated on the southern side of Castle Street and comprises the ground floor only; the building is part of a terrace and is a Grade II Listed Building. The first and second floors of the building comprise residential accommodation. The applicant is submitting a separate application for Listed Building Consent.

The proposed use is for a coffee shop (mixed A1/A3). The unit will sell a range of hot and cold beverages, snacks and associated merchandise. No cooking facilities are proposed on site, all sandwiches, cakes and other items are to be prepared and packaged off site and delivered to the unit each morning. There will be the option to eat on site or takeaway. The unit has a floor area of 207sq m, with 34% of this being devoted to tables and chairs. Proposed opening hours are between 8.00am and 6.00pm, with occasional seasonal variation.

A supporting statement has been submitted with the application. This provides survey evidence justifying that the proposal will enhance the vitality and viability of Hinckley town centre and concludes that the proposal will be compatible with surrounding uses, will not give rise to any neighbourly adverse impacts, will not result in an overconcentration of non-retail uses, will sustain and enhance Hinckley town centre, and is therefore compliant with Local Plan policy and the adopted SPD on Shopping and Shop Fronts.

**History:-**

97/00654/FUL	Installation of External Security Shutter	Approved	10.09.97
97/00650/LBC	Installation of External Security Shutter	Approved	10.09.97
96/00539/FUL	Roller Shutter	Refused	18.09.96
96/00539/LBC	Roller Shutter	Refused	18.09.96
79/00903/4M	Erection of Extension to Shop and Storeroom	Approved	24.07.79
75/00569/4	Retention of Store	Approved	03.06.75



**Consultations:-**

No objections received from:-

English Heritage  
 Head of Community Services (Land Drainage).

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

Director of Community Services (Archaeology)  
 Civic Society

Historic Buildings Panel.

**Policy:-**

National Policy Guidance

Planning Policy Statement 6: Town Centres (PPS6) states that the planning system has a key role in facilitating and promoting sustainable and inclusive patterns of development, including the creation of vital and viable town centres. The government's key objective for town centres is to promote their vitality and viability by:-

- planning for the growth and development of existing centres; and
- promoting and enhancing existing centres, by focusing development in such centres and encouraging a wide range of services in a good environment, accessible to all.

Planning Policy Statement 15: Planning and the Historic Environment (PPS15) provides a full statement of Government policies for the identification and protection of historic buildings, conservation areas, and other elements of the historic environment.

Local Plan Policy

The site is located within the Hinckley Town Centre Conservation Area and the Primary shopping frontage area as defined by the Hinckley and Bosworth Local Plan. The property is a Grade II listed building.

Policy Retail 2 – Primary Shopping Frontages, Hinckley Town Centre states that planning permission will only be granted for A3 uses on the primary shopping frontage providing that:

- The proposed development would have no adverse effect, through the over concentration of such a use on any continuous frontage, on the overall retail function and character of the town centre.
- The proposed development would not have a seriously detrimental effect on the amenities enjoyed by the occupiers of adjoining property by reason of height, mass, design, proximity, noise, litter or smell;
- The proposal development would not involve the removal of an existing shop type frontage or, in the case of new development, fail to provide a shop type frontage.

Policy BE1 – Siting and Design suggests that planning permission will be granted where:- the proposal is not adversely affected by activities in the vicinity of the site which are likely to cause nuisance to the occupiers of the proposed development; does not adversely affect the occupiers of neighbouring properties; and the development of the site is not prejudicial to the comprehensive development of the larger area of land of which the development forms part.

Policy BE7 - Development in Conservation Areas. This seeks to preserve and enhance the special character and appearance of buildings.

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

Supplementary Planning Guidance



The Shopping and Shop Fronts SPD seeks to enhance the vitality and viability of town centres, through ensuring that there is a balance and mix of retail and non-retail uses. In relation to the Primary Shopping Frontage - Hinckley Town Centre, and in accordance with the intentions of Policy Retail 2 of the Local Plan, the guidance seeks to curb the overconcentration of non-A1 uses, to prevent the decline of the overall retail function. To supplement policy Retail 2, the guidance suggests that proposals for non-A1 uses, for the whole primary shopping frontage will be restricted to not more than 12% (of all shop units) to include existing, committed and proposed, and that not more than 3 adjoining shop units or 15 metres in length of continuous frontage should be occupied by non-A1 uses.

### **Appraisal:-**

The main considerations in this case are the principle of having a mixed A1/A3 use in the primary shopping area of Hinckley, impact on residential amenity and impact on the streetscene, Listed Building and Conservation Area.

#### Principle of development

The applicants have stated that coffee shops are now regarded as part of usual town centre amenities, and thus the proposal will increase the range of amenities; that Costa will contribute more to the vitality and viability of a town centre than many existing retailers, attracting strong customer footfall and patronage compared to typical retail units, (justified by evidence contained in their supporting statement) and that the premises will trade as a mixed A1/A3 use.

In respect of applications proposing a change of use from Class A1 within the Hinckley town centre, policy Retail 2 states that planning permission will only be granted where the proposal would not result in an overconcentration of such a use. The adopted Supplementary Planning Document adds further clarification on this issue and states that the Council will seek to resist any application for a change of use to a non-A1 use within Hinckley Town Centre's Primary Shopping Frontage, if it would result in more than 12% of frontages within the primary shopping area comprising non A1 (shop) uses. It further adds that no more than 3 adjacent shop units or 15 metres in length of frontage should be occupied by non-A1 uses.

The latest count (March 2009) indicates that currently 12.05% of frontages in the Primary Shopping area comprise non-A1 uses, if this application is permitted this percentage will rise to 13.25%. Furthermore, the site is adjacent to one A2 unit therefore if granted there would be 2 non-A1 uses adjacent one another equating to a non-A1 frontage for 12 metres.

It can be seen that the granting of this application would marginally breach the percentage threshold of non-A1 uses, but would not result in an over-concentration of non-A1 uses in terms of adjacent uses. The overall vitality and vibrancy of the town centre should also be considered. Survey evidence illustrating shopper's behaviour, indicates that shopping has now become more of a social/recreational activity, as opposed to a purely functional requirement, and that coffee/amenity breaks have become an established, routine element of shopping. Furthermore a mix of uses within the town centre, especially A3 uses, is recognised to add to the vibrancy of the evening economy. Of the existing 12.05% of non-A1 uses only 1.2% are A3 uses (1 unit in total), this proposal would take this to 2.4%.

Due to the cultural change in shopping activities, the presence of a coffee shop in a predominantly A1 dominated area is considered to be of more convenience to shoppers, leading to increased visitor numbers, and vibrancy. It is therefore considered that this proposal will not have an adverse impact on the town centres vibrancy and vitality but

instead will positively contribute to the vitality and vibrancy of the town centre and could improve the towns evening economy.

#### Impact on Amenity of Neighbouring Residents

The site comprises residential use at first floor therefore the impact of an A1/A3 use on the resident's amenity should be considered. The application does not propose any extraction system as cooking is not proposed on site as such amenity will not be affected by the extraction of odour. Should cooking be undertaken in the future, permission would be required for the extraction system. Deliveries will be comparable to adjacent units. The use of the unit will alter with customers remaining on site longer, however it is not considered that this has a significant noise level associated with it. Furthermore, due to the location of a residential unit within a town centre a certain degree of noise and disturbance is expected. As such it is considered that the proposed use will not result in any detriment to residential amenity.

#### Impact on Conservation Area, Listed Building and Street Scene

As the proposal seeks change of use of the building only, there are no proposals to alter the appearance of the building externally; therefore there will be no impact on the conservation area or streetscene generally. A separate Listed Building application has been submitted which will fully consider the impact of the proposals upon the listed building; this application does not propose any alterations.

#### Conclusion

This is a finely balanced proposal, however it is considered that as the scheme is for a mixed A1/A3 use, and as there is only one other A3 use within the central shopping area, the application will not result in an overconcentration of A3 uses within the primary retail area, and thus the vitality and viability of Hinckley Town Centre will be retained. Accordingly the proposal complies with policy Retail 2 of the adopted Hinckley and Bosworth Local Plan and is recommended for approval.

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

#### **Summary of Reasons for Recommendation and Relevant Development Plan Policies :**

**Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. Resultant of the scale and mix of uses proposed (specifically coffee shops and retail use) there are considered no material impacts on the character or vitality of Hinckley Town Centre, the Conservation Area or streetscene, or on the residential amenity of adjacent properties. Accordingly the proposal is considered acceptable.**

Hinckley & Bosworth Borough Council Local Plan (2001) :- PPS6, Retail 2, BE1, BE7, SPD Shopping and Shop Fronts

- 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 28055/SC01/ received by the Local Planning Authority on 02.05.09.

- 3 The use hereby approved shall be in accordance with the details shown on the approved plans.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt.
- 3 To define the permission and to protect the retail character of the Town Centre.

**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](http://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:- Drg Nos. 28055/SC01; 28055/ex; 28055/04; Supporting Statement.
- 6 To comply with condition 4 the premises shall be used as a coffee shop and A1 retail premises only.

**Contact Officer:-** Eleanor Shaw Ext 5691

**Item:** 07

**Reference:** 09/00455/OUT

**Applicant:** Mr David Hancock

**Location:** 69 Main Street Carlton Nuneaton CV13 0BZ

**Proposal:** ERECTION OF TWO DWELLINGS WITH CREATION OF ACCESS AND PARKING, EXTENSION AND ALTERATIONS TO EXISTING DWELLING AND GARAGE

**Introduction:-**

This application seeks outline planning permission for two dwellings to the front of no.69 Main Street Carlton, the demolition and rebuilding of the garage to no.69 to facilitate this development, the removal of a number of trees (subject to a tree preservation order) and revised vehicular access arrangements to Main Street. The application seeks approval of the layout, access and scale with appearance and landscaping reserved for approval at a later date.

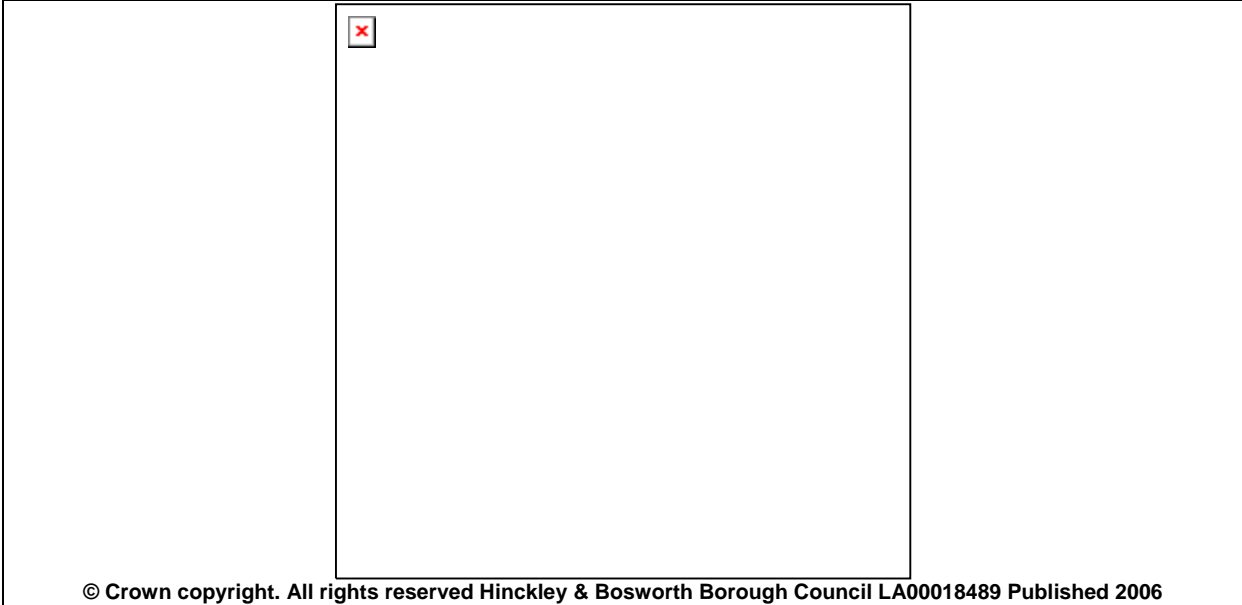
The application site comprises the front garden of this large detached dwelling that stands some 30 metres back from Main Street. The property is currently accessed from a single vehicular access to Main Street. The property's frontage is bound by a brick wall of approximately 1.5 metres in height, beyond which are a number of young trees. There is a 1974, Leicestershire County Council Tree Preservation Order which relates to an area across the property frontage of approximately 6 metres deep. However, there appears to be only two trees remaining which are likely to be of an age to be subject to the order.

This application is a resubmission following an earlier scheme for a similar development that was withdrawn due to highway and design concerns.

The application is accompanied by a design and access statement. Which states that, the site can accommodate two dwellings and will improve the appearance of the site. It considers the use, amount, layout, scale and landscaping of the site. A protected species survey was also submitted which demonstrated that a walkover survey and intrusive survey of all areas of building had been undertaken. It concluded that there is some nesting opportunity for birds but no active nests were present; areas to the north and west of the site are used for foraging by bats but no evidence of bat roosts on site was found; a single Great Crested Newt was present therefore there is a need to enhance the species habitat, the creation of a pond on or close by the site is suggested prior to commencement of development.

**History:-**

08/00466/OUT	Proposed erection of two dwellings and extensions and alterations to existing dwelling house	Withdrawn	12.08.08
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**Consultations:-**

No objections received from Severn Trent Water Limited.

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

The Head of Business Development and Streetscene Services (Waste Minimisation) suggests that as the drive is shared between 2 properties the developer should be aware of collection services, number of containers and quantity of containers each property will be putting at boundary. A wider area at entrance is suggested to provide room for containers etc.

Director of Community Services (Ecology) requires a practical mitigation strategy to ensure the Great Crested Newt present on the site is not adversely affected.

Carlton Parish Council raise no objection to the development. They state that the TPO related to mature Elm trees that were killed by Dutch Elm disease. The replacements are inappropriate and therefore to compensate for the loss at least 2 deciduous trees should be provided at the front of the plot. They agree with the Design and Access Statement in that the dwelling should be of a similar character to No 69 and of a size and character to neighbouring properties. They request that the access drive is surfaced in a bound material.

The Environment Agency have no comment to make.

One neighbour, whilst not objecting, has commented regarding loss of privacy to the front and rear of his property and suggests no windows should face his property. Further screening and opaque windows will ensure that privacy should be maintained.

At the time of writing the report no responses have been received from:

Director of Highways, Transportation and Waste Management (Highways)

Site notice was displayed and neighbours notified.

### **Policy:-**

#### Central Government Guidance

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

Planning Policy Statement 3: Housing (PPS3) encourages the use of previously developed (brown field land) for residential development.

#### Local Plan Policy

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

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 RES5 allows residential development on unallocated sites within the settlement boundary providing it is in line with other plan policies.

Policy T5 seeks to ensure that all developments accord with Leicestershire County Council's current highway guidance, to ensure a satisfactory arrangement is achieved in terms of highway safety.

Policy NE12 seeks to ensure that all new development takes account of its surrounding landscape and makes provision for further landscaping where appropriate.

Policy NE14 seeks to ensure that all new development takes account of foul sewage and surface water.

Policy IMP1 requires improvements to infrastructure and services commensurate with the scale of development proposed.

Policy REC3 seeks to ensure that all new developments make satisfactory provision for outdoor play space for children, either through on or off site provision of a commuted sum toward the development and maintenance of existing facilities.

#### Supplementary Planning Guidance / Documents

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

#### **Appraisal:-**

The main considerations with regards to this application are the principle of development, the layout and scale, impact on neighbours, highway issues and whether the proposal will have an impact on the trees to the sites frontage.

#### The Principle of Development

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

The application proposes an infill development but is unusual in so far as the site for development is forward of the existing dwelling. This is only possible because of the width of the site and the fact that the existing dwelling stands approximately 30 metres back from Main Street, resulting in a large area of land adjacent to the Main Street frontage. The principle of developing forward of the existing dwelling is considered acceptable subject to the appropriate siting and design of the dwellings proposed.

The proposed demolition and rebuilding of the applicants garage is considered acceptable.

#### Layout and Scale

The position of No.69 set some 30 metres back from Main Street is at odds with the general character of the area. Most dwellings are set much closer to the road. The proposal to site two additional dwellings fronting Main Street continues the characteristic pattern of the street without unduly harming the setting of amenities experienced by the occupiers of no.69.

The separation distance between the existing dwelling and the rear of the proposed 67A is 18.5 metres, however, the proposed dwelling incorporates a design that is single storey in

part to the rear and adequate rear boundary screening to ensure that the siting will not cause undue privacy issues or an overbearing effect on the dwelling. It is therefore considered that the proposal complies with policy BE1 and the Council's Supplementary Planning Guidance.

The scale of the development proposed, in this case, is directly relevant to the success of the scheme due to the sites constraints. The two dwellings proposed are sited at either side of the site. The dwellings proposed are of an unusual design, featuring a conventional two-storey elevation to the Main Street frontage and a single storey elevation to the rear. This arrangement is proposed to remove the need for any first floor windows to the rear. The resultant effect of this arrangement is that the dwellings proposed maintain the two-storey character of Main Street but also provide dwellings that are of a suitable scale for the site.

The proposed dwellings have private rear garden sizes exceeding 80 square metres and are therefore considered acceptable in terms of private amenity space.

### Impact on Neighbours

Through careful design that respects the sites physical constraints, the need for any first floor windows to the rear elevation of either dwelling has been avoided and therefore any impact on the amenities of the existing occupiers of no.69 has been designed out.

The siting of the dwellings is unlikely to result in any impact on the adjacent dwellings in Main Street due to the position alongside and marginally forward of these existing dwellings. As this is only an outline scheme, with appearance reserved for approval at a later time, no details are known of the side elevations, however careful consideration will need to be given to the detailing of the elevations, particularly in terms of window positions to successfully avoid any impact on neighbouring amenity. The comments raised by the neighbour with regard to potential for loss of privacy will be fully considered at the reserved matters stage. However, any approval can through condition tie the design of dwellings at the reserved matters stage to the principles within the Design and Access Statement.

### Highway Issues

Both of the proposed dwellings provide at least 3 off street car parking spaces and the host dwelling no.69, retains ample parking both on its frontage and within the replacement garage.

The Highway Authority has been consulted on the application but have not responded at the time of writing the report. However, the application was subject to extensive pre-application discussion with the Highway Authority and there is unlikely to be adverse highway issues associated with the development. Their comments will be reported as a late item.

### Trees

At the time of writing this report, the formal response of the Director of Community Services (Landscape) in respect of the works to the trees subject to the Leicestershire County Tree Preservation Order has not been received. Detailed discussions have taken place with the Landscape Officer who advises that the trees subject to the order have poor amenity value and there would be greater merit in seeking appropriate replacements to compliment the development of the site. The formal response will be reported as a late item. Furthermore the Parish Council comment that the original trees subject to the TPO have died and subsequently been replaced.

### Other Matters

The protected species survey identifies the presence of one Great Crested Newt at the site, and suggests that due regard is given to additional habitat for protected species, such as consideration of native plant species within the landscaping scheme which will help to enhance the foraging opportunities by promoting biodiversity of invertebrates to the benefit of birds and bats higher up the food chain.

In line with Policy IMP1 and REC3 of the adopted Local Plan the site is located within 400 metres of St Andrews Churchyard, Carlton Burial Ground and the two village green areas at the corner of Main Street and Shackerstone Walk, developer contributions are sought in respect of the ongoing maintenance of these facilities, inline with the guidance of the Supplementary Planning Document on Play and Open Space and the requirements of policy REC3. This figure totals £2501.60. The quality scores contained within the Green Space Strategy Audit with regard to the two areas of village green are 54.8 % and 40.5%, it is therefore anticipated that the monies would be spent to improve these particular areas.

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

**Summary of Reasons for Recommendation and Relevant Development Plan Policies :**

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

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, RES5, T5, NE14, IMP1, REC3; SPG on New Residential Development and SPD on Play and Open Space

- 1 Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2 Approval of the following details (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced:
  - i) The appearance of the development including the aspects of a building or place that determine the visual impression it makes.
  - ii) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures.

The development shall be implemented in accordance with the approved details. There shall be no amendments or variations to the approved details unless otherwise agreed in writing by the Local Planning Authority.

- 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 The landscaping details required by Condition 2 of this permission, to be submitted as part of the reserved matters application, shall include:



- (i) proposed finished levels (including finished floor levels)
  - (ii) means of enclosure and boundary treatments
  - (iii) hard surfacing materials
  - (iv) planting plans, including replacement trees for those proposed to be removed
  - (v) written specifications
  - (vi) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
  - (viii) 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 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 policies IMP1 and 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.
  - 7 With regard to Condition 2 above, the application for reserved matters shall accord in terms of design and scale with the proposals indicated within the design and access statement dated 17th June 2009.
  - 8 The application for reserved matters shall include details which accord with the conclusions and recommendations contained within the Ecological Survey submitted with this application. Any enhancement of species habitat and mitigation measures identified shall be carried out in a manner to be agreed in writing with the Local Planning Authority prior to works on site being commenced.

**Reasons:-**

- 1 & 2 To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 3 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure the adequate provision of public play and open space within the vicinity of the site to accord with policies IMP1 and REC3 of the adopted Hinckley and Bosworth Local Plan and the Adopted Supplementary Planning Document on Play and Open Space.
- 7 For the avoidance of doubt and to ensure that the development is carried out in accordance proposals contained with the design and access statement submitted. To

ensure a satisfactory form of development, to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.

- 8 For the avoidance of doubt and to secure proper steps to safeguard and enhance the protected species on the site. To ensure that the development is carried out in accordance proposals contained with the ecological survey submitted.

**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](http://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:- 3769/01 Rev A, 3769/02 and 3769/03 Rev C.
- 6 Due to the forward position of the plot approved adjacent to the sites eastern boundary (shown on plan as no.69a), there shall be no windows to habitable rooms in the east elevation of this dwelling.
- 7 The current play and open space contribution required by condition no.6 is £1250.80p per dwelling, therefore totalling £2501.60.
- 8 With regard to condition 7, the design of the proposed two dwellings shall not include rear windows at first floor level.

**Contact Officer:-** James Hicks Ext 5762

**Item:** 08  
**Reference:** 09/00493/DEEM  
**Applicant:** Hinckley And Bosworth Borough Council  
**Location:** Land Adj 50 Forest Rise Groby Leicestershire  
**Proposal:** ERECTION OF DWELLING

**Introduction:-**

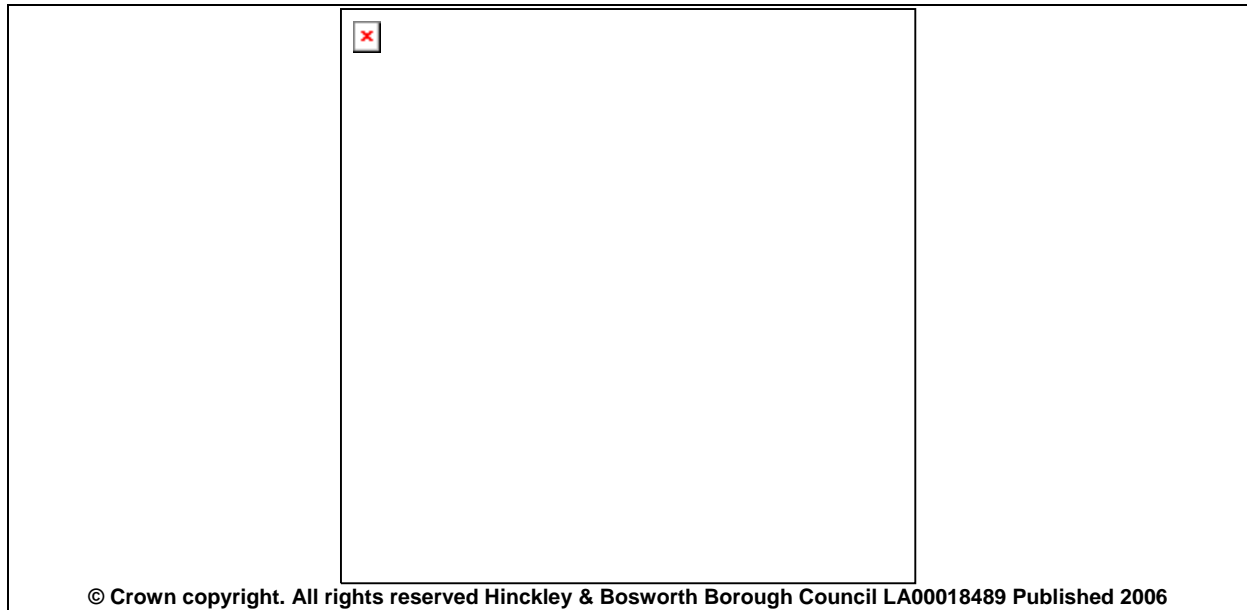
This application seeks outline planning permission, with all matters reserved, for a two storey dwelling located on land to the south of 50 Forest Rise, Groby. The land is currently in the ownership of the Borough Council, who are the applicants.

The site is a corner plot situated at the junction of Lawnwood Road, Forest Rise, Martinshaw Lane and an access road to the rear of properties. The application site consists of a triangular shaped, grassed area of land, with a single silver birch tree, which is to be removed. To the north of the application site is a terrace of two storey dwellings dating from the 1970's, characterised by shallow pitched roofs, and white UPVc cladding to the front. These properties are set back from the highway with off street parking to the front. Opposite the application site are 1950's semi-detached properties set behind small front gardens with hedges or walls forming the boundary with the highway. The site is slightly higher than the highway but is itself flat. A mixed hedgerow runs along the south-western boundary, separating the site from the access road. To the south of the site beyond the access road are single storey bungalows.

Whilst all matters are reserved, the design and access statement submitted in support of the application gives details regarding the proposed scale and siting of the dwelling, and how the shape of the site has determined the indicative layout. It is indicated that a two storey dwelling with eaves and ridge to match the height of 50 Forest Rise would be appropriate on the site. An indicative plan has been submitted showing how the dwelling could be positioned, including where a possible access could be sited.

**History:-**

No relevant planning history.



**Consultations:-**

No objection has been received from:-

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

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

Parish Council  
Neighbours.

**Policy:-**

Central Government Guidance

Planning Policy Statement 1 - Sustainable Development and Climate Change, outlines the Government's objectives for the land use planning system with a focus on protecting the environment.

Planning Policy Statement 3 - Housing, explains how the Government's objectives on housing can be delivered through the planning system, whilst promoting the objectives of sustainable development.

Local Plan Policy

The site lies within the Groby Settlement Boundary as defined within the adopted Hinckley and Bosworth Local Plan.

Policy RES5 relates to residential development on unallocated sites and supports the principle of development providing the site is within the settlement boundary and complies with other policies of the Local Plan.

Policy BE1 requires the design and siting of new development to be of a high standard of design, incorporate a high quality landscaping scheme, have regard to highway safety and the amenities of neighbouring residents.

Policy IMP1 requires new developments to contribute towards infrastructure and facilities to serve the development commensurate with the scale and nature of the proposal.

Policy REC3 ensures that there is adequate standard of play and open space to serve new residential development.

Policy T5 requires new development to apply the highway design standards as published by Leicestershire County Council.

### Supplementary Planning Guidance / Documents

Supplementary Planning Guidance relating to New Residential Developments gives guidance on the design of new residential development and the separation distances that are required to ensure privacy and adequate amenity spaces for the new dwellings.

The Play and Open Space Supplementary Planning Document sets out the Council's Play and Open Space strategy and justification from policy and Government Guidance.

Supplementary Planning Document on Sustainable Design aims to promote sustainable developments on new developments within the Borough.

### **Appraisal:-**

The main considerations with regards to this application are the principle of a dwelling in the proposed location, the impact on the streetscene and amenities of neighbouring residents and the impact on highway safety.

### Principle of development

The site is located within the settlement boundary of Groby. Policy RES5 allows new residential development on unallocated sites which are within the settlement boundary providing the design, mass and siting of the proposal complies with other policies within the adopted Hinckley and Bosworth Local Plan. It is therefore considered that the principle of development is acceptable.

### Impact on Streetscene

The application site comprises of an area of ground that currently forms a green open space within the residential estate. Although there are other open spaces present in the locality the estate is not characterised by regular open spaces nor do the properties have particularly open frontages. There is currently a semi-mature silver birch tree on the site which it is proposed would be removed. Whilst this tree currently adds to the appearance of the streetscene it is not protected and is considered to have limited amenity value and therefore not considered worthy of protection. It is indicated within the application that the tree would be replaced with a suitable alternative which will then be shown within any landscaping scheme submitted with the reserved matters. It is considered that a dwelling positioned as shown on the indicative plan, adjacent and in line with No 50, would not have a detrimental effect on the character of the area or street scene.

### Residential Amenity

The dwelling would be located to the south of 50 Forest Rise, which has no side windows in the south elevation. The indicative layout shows how a dwelling could be accommodated on the site without having an adverse impact on the residents of No 50 Forest Rise. The location of windows could be controlled through the reserved matters application to ensure overlooking is kept to a minimum. The indicative location of the dwelling, adjacent to and alongside No 50 will ensure there is no significant overshadowing nor any overbearing impact. It is considered that, given the relationship between the surrounding dwellings and the distance between them and the application site, a dwelling could be accommodated within the site without significantly impacting upon the privacy currently enjoyed by neighbouring residents.

### Highway Safety

The application is located within a residential area with other driveways in the vicinity. Whilst close to the junction it is not considered that an additional access would result in a danger to other users of the highway. The number of off street parking spaces will be considered at the reserved matters stage. No objections have been raised by the Highway Authority.

### Other Issues

The application site is located within 400m of Highfield Road recreational space which has a poor rating within the Green Space Strategy, Audit of Provision 2007 Update. A contribution towards the improvement and maintenance of this space is therefore required in line with Policy REC3 of the Local Plan. This can be requested by planning condition.

### Conclusion

The principle of a new residential dwelling on the site is considered acceptable. The relationship between surrounding dwellings is such that a two storey dwelling with adequate off street parking could be accommodated on the site without adversely affecting the amenities of neighbouring residents or highway safety. As such the application is recommended for approval.

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

#### **Summary of Reasons for Recommendation and Relevant Development Plan Policies :**

**Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development by virtue of the location within the settlement boundary, the size of the plot, the orientation of surrounding dwellings and highway status the proposed development, subject to the reserved matters would not have an adverse impact on the amenities of neighbouring residents, the character of the area or highway safety. The proposal would be in accordance with the development plan.**

Hinckley & Bosworth Borough Council Local Plan (2001) :- IMP1, RES5, BE1, REC3, and T5

- 1 Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

2 Approval of the following details (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced:

- i) The layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development.
- ii) The scale of each building proposed in relation to its surroundings.
- iii) The appearance of the development including the aspects of a building or place that determine the visual impression it makes.
- iv) The access arrangements to and within the site for vehicles, cycles and pedestrians.
- v) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures.

The development shall be implemented in accordance with the approved details. There shall be no amendments or variations to the approved details unless otherwise agreed in writing by the Local Planning Authority.

3 The reserved matters application shall include the following information for the prior approval by the Local Planning Authority.

- i) The external building materials
- ii) The provision to be made for vehicle parking on the site
- iii) The existing trees and hedges on the site, which are to be retained
- iv) The provision to be made for screening by walls and fences
- v) The floor levels of the proposed dwelling in relation to the existing ground level and the finished levels of the site.

The development shall be implemented in accordance with the approved details. There shall be no amendments or variations to the approved details unless otherwise agreed in writing by the Local Planning Authority.

4 The development hereby permitted shall not commence before the provision and maintenance of off-site open space or facilities whether by off-site physical provision or financial contributions as required in accordance with policies IMP1 and REC3 of the adopted Hinckley and Bosworth Local Plan and the approved Play and Open Space Guide has been secured in such a manner as is approved in writing by the Local Planning Authority.

5 The ridge height of the proposed dwelling shall not exceed that of the neighbouring property of 50 Forest Rise, Markfield.

**Reasons:-**

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

- 4 To ensure the provision of adequate play and open space within the vicinity of the site in accordance with Policies IMP1 and REC3 of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure the development has a satisfactory external appearance in accordance with Policy BE1 of the Hinckley and Bosworth adopted 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](http://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 landscaping scheme submitted with the reserved matters application should include a replacement tree.
- 6 The indicative layout with regard to the position of the dwelling and access should be followed within the reserved matters application.
- 7 Condition 4 refers to play and open space requirements. In this instance a contribution of £1250.80 is required towards the provision of off-site public open space. This can be provided by a one off payment or secured by the completion of a legal Agreement under Section 106 of the Town and Country Planning Act 1990.

**Contact Officer:-** Sarah Humphries Ext 5680



**Item:** 09  
**Reference:** 09/00494/FUL  
**Applicant:** Mr & Mrs Paul Witham  
**Location:** 35 Springfield Road Hinckley Leicestershire LE10 1AN  
**Proposal:** EXTENSION AND ALTERATIONS TO DWELLING

**Introduction:-**

This application seeks full planning permission for the erection of a two-storey rear extension at 35 Springfield Road, Hinckley.

The application property is a two storey, detached dwelling with side garage located on a large plot within a residential street comprising properties of individual character. The site has common boundaries with gardens of properties on Springfield Road, Hurst Road and Priesthills Road.

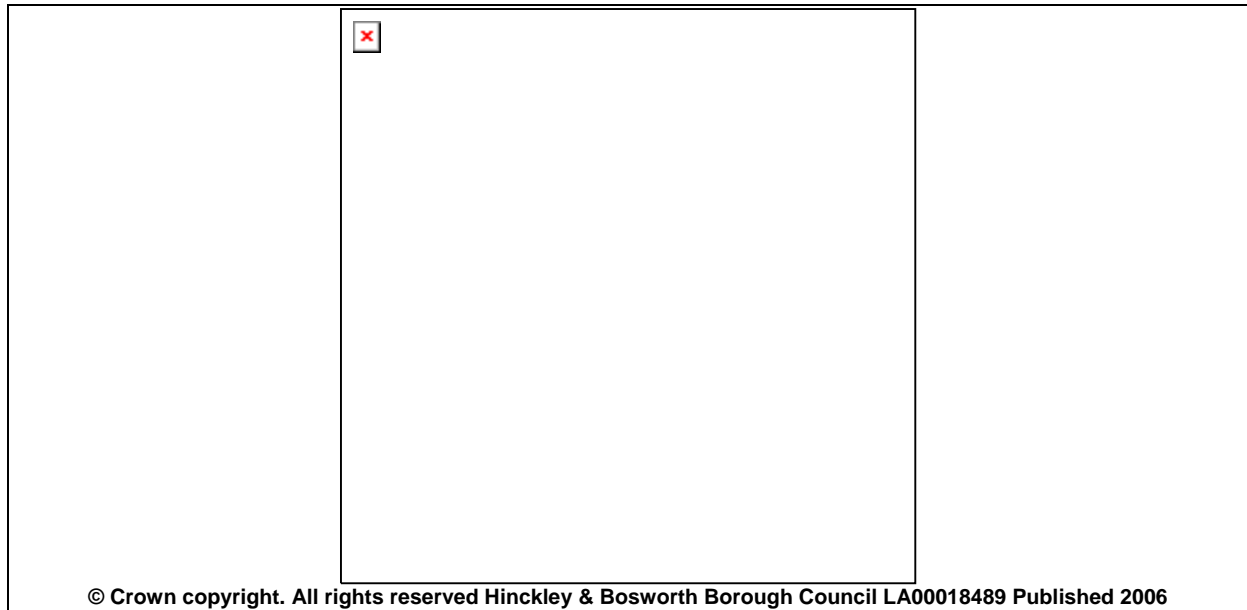
The rear extension will form two new projecting gables with pitched roofs. The two storey element of the extension will project 4 metres from the original rear gable, standing level with the existing rear gable at which point it drops into a single storey extension for the remaining 2.3 metres. It will span 7.1 metres in width and stand at 7.3 metres in height. The roof of the single storey extension will form a balcony.

The scheme includes the insertion of a door and two small windows on the rear elevation of the existing garage, two French doors at ground floor level and one French door and window at first floor on the rear elevation of the proposed extension and a velux roof light on the eastern roof plain. A window is included on the western elevation at ground floor level and a chimney is positioned on the balcony abutting the rear elevation reaching a height of 3.3 metres but standing at 8.2 metres from the ground. The existing conservatory will be demolished as part of the development.

This application is a resubmission of a previously refused application (09/00285/FUL). The current scheme has reduced the two-storey extension considerably.

**History:-**

09/00285/FUL	Extensions and alterations to dwelling	Refused	22.05.09
02/00889/FUL	Rear two storey extension	Approved	30.08.02
90/00768/4	Extensions to dwelling	Approved	25.09.90



**Consultations:-**

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

The Director of Community Services (Ecology) has requested a bat survey as part of this application.

One objection has been received from the neighbouring property, 37 Springfield Road with the following comments;-

- Concerns regarding the massing of the proposal especially when the garage and side extensions are considered
- The proposed balcony will overlook the garden and rear windows of 37 Springfield Road and neighbouring gardens creating a loss of privacy
- The proposal will create an overshadowing effect, especially when the height and appearance of the chimney stack are considered in addition this feature will create a focal point and eyesore from the garden of 37 Springfield Road.

**Policy:-**

Local Plan Policy

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

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

Supplementary Planning Guidance

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

### **Appraisal:-**

The main issues to address in this application are the design of the development and its impact on the character of the area and neighbours amenity.

### The Principle

The site is located in a residential area within Hinckley and the erection of a rear extension to a dwelling is considered acceptable in principle.

### Design

35 Springfield Road also known as 'The Gables' is a large detached Arts and Craft property situated on a large plot. The proposed extension whilst large would appear in proportion with this detached dwelling and would retain ample amenity space to the rear.

The property currently has an assortment of roof types, ridge heights and roof pitches which include a projecting gable extension to the rear and original projecting rear gable with cat-slide roof. The proposed extension will create a double gabled rear projection which would not exceed the height of the existing eaves or ridge lines and would be acceptable in relation to the varied roof structure of this dwelling. Projecting gables are also an integral feature to this property and the design of the proposal reflects this characteristic.

The scheme also includes a chimney stack on the eastern corner of the balcony abutting the rear elevation which will serve a wood burning stove in the newly formed living room. The size and height of the proposed chimney would be smaller than the existing chimney but would be visible from 37 Springfield Road. Chimney stacks are a common feature on Springfield Road and thus would be an acceptable design element for this dwelling however the chimney adds unnecessary additional massing to the side of the property and whilst not a reason for refusal another more subtle means of extracting smoke from the proposed fire would be more appropriate. Amended plans have been requested illustrating the replacement of the chimney with an alternative such as a small flue but none have been forthcoming at the time of writing this report. Further information will be provided as a late item.

The newly formed doors and windows are vertically emphasised to mirror the existing and of a similar size and proportion to the existing doors and windows and would be acceptable in design terms. The proposal includes a balcony which is not characteristic of this Arts and Craft property but it is located on the rear and would not be visible from the street.

### Impact on Residential Amenity

The application property currently has a garage set back from the eastern site boundary by 0.2 metres which projects approximately 6 metres past the rear of the adjacent property 37 Springfield Road. The garage roof steps down by approximately 0.5 metres for the final 5 metre projection. When viewed from 37 Springfield Road the existing garage roof tends to dominate the outlook to the west from the rear garden of No.37.

The proposed two storey projecting gables will extend the main house 6.3 metres further into the rear garden. The application property is set back from 37 Springfield Road and the final 2.3 metres of the extension are single storey the scheme will add approximately 4 metres of

additional roofscape, albeit set off the boundary by 4 metres, as viewed from the adjacent garden. The proposed gables, due to their distance from the boundary and the location of the garage, would not cause any significant overshadowing to the adjacent garden to warrant refusal of the application. It is thus considered that the mass of the proposal whilst visible from No 37 will not cause detriment to the amenity of occupiers at No 37.

This application includes a balcony on the roof of the 2.3 metre single storey element of the extension, which lays approximately 0.9 metres behind the gable end of the adjacent garage, meaning when utilising the balcony views into the property or garden of 37 Springfield Road are obscured by the garage ridge when taking the average eye height of 1.6 metres. As such it is considered the proposal will not cause overlooking and detriment to the occupiers privacy.

The balcony will face northward toward the rear gardens of 52 and 54 Priesthills Road however a separation distance of approximately 30 metres separates the rear elevations. In addition fencing and vegetation on the rear boundary provides screening and overlooking and privacy of these two properties is not a concern.

Due to the north-easterly position of 28 Hurst Road part of their rear garden is likely to be visible when standing on the proposed balcony. However, tall trees and dense vegetation on this properties rear boundary will restrict views, which would be at a distance of at least 10 metres. It is therefore considered that there will be no adverse impact to the amenity of residents at 28 Hurst Road.

The boundary with 33 Springfield Road has some dense vegetation on the area closest to the house, which will obscure the view from the balcony to this property's rear elevation. The middle section of this rear garden is likely to be visible from the balcony but the level of activity on both the balcony and this section of visible garden area is expected to be low reducing the impact of overlooking on privacy. To further reduce any impact on this property a condition will be placed on the decision requiring the submission of screening details to be submitted and approved by the Authority at a height of at least 1.6 metres prior to commencement of development.

### Ecology

The Director of Community Services (Ecology) has requested a bat survey be submitted as part of this application because the roof space is to be altered and mature trees are located on site and within the gardens of adjacent properties. The Borough Council however have no record of any bat roosts in the area, which combined with overarching legislation protecting bats from disturbance would make the provision of a bat survey an onerous requirement. A note to applicant advising of legislation on bats will be placed on the application.

### Conclusion

The application site can accommodate the size and massing of the development and the design would be acceptable in relation to the property. This resubmission is a significant improvement on the previous refusal and it is considered that it has adequately addressed the concerns relating to the overbearing impact on 37 Springfield Road by reducing the massing of the roof. Whilst the chimney does add additional massing to the building and amended plans have been requested it does not warrant refusal of the application on this basis. The proposed balcony is likely to have a view of a portion of the gardens of 28 Hurst Road and 33 Springfield Road but it is not considered to be unduly detrimental to the amenity enjoyed by these properties especially when boundary screening and a screen on the western edge of the balcony are considered.

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

**Summary of Reasons for Recommendation and Relevant Development Plan Policies :**

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

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials of the existing dwelling unless previously agreed in writing with the Local Planning Authority.
- 3 A plan illustrating a method of screening on the western side of the balcony hereby approved shall be submitted to and approved in writing by the Local Authority prior to commencement of development and shall be implemented in accordance with the approved plans and maintained thereafter.

**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 amenity of 33 Springfield Road to accord with Local Plan Policy BE1.

**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](http://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 screening on the western side of the balcony should stand no lower than 1.6 metres from the base of the balcony and should be designed to obscure views in a westerly direction.
- 6 List of plans used in the determination of this application:-  
Block Plan, Site Location Plan and drawing number 4190.

**Contact Officer:-** David Kiernan Ext 5898

**PLANNING COMMITTEE – 4 August 2009**

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

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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 Miss Joanna Squires against the refusal of planning permission for the creation of new access to field (09/00336/FUL) at land adjacent to Lodge Farm, Wood Road, Nailstone, Leicestershire. (Informal Hearing).

3.1.3 Appeal by Mr Richard Timpson against the refusal of planning permission for the erection of a new dwelling (08/01102/FUL) at land rear of 60 Lychgate Lane, Burbage. (Written Representations)

3.2 Appeals Determined

3.2.1 Appeal by Mr Gary Smith against the refusal of planning permission for the retention of one radio mast and antenna and erection of one radio mast and antenna (08/00787/FUL) at 2 Hawthorne Rise, Groby. (Written Representations).

3.2.2 The Inspector considered the main issue to be the effect of the development on the character and appearance of the area, on the outlook of neighbouring residents, and, if permitted, would the mast create a precedent. In making his decision the Inspector had regard to guidance within PPG8 which recognises that radio can be used for a hobby and leisure purposes which the Government encourages.

3.2.3 The proposal related to two masts. Mast one, located in the rear garden, 3.1m from the rear wall of the dwelling, would consist of a retractable mast of triangular lattice construction, with a height of 7m, when retracted, and an extended height of 16.4m. Antennas attached to the top of this would add an addition 6m in height. Mast 2 sited to the side of the house adjacent to 4 Hawthorne Rise consists of a telescopic mast that is 3m in height when retracted and extends to a height of 12m.

3.2.4 Even when retracted, the antennas to mast one would be visible above the height of the dwelling and when extended be over twice the height of the dwelling. Due to the lattice construction, mast one would be a prominent

feature within the rear garden due to the size and appearance. This is exacerbated by the small size of the rear gardens and current open nature with limited screening from vegetation. The Inspector concluded that mast one would therefore harm the character and appearance of the area and the outlook of neighbouring residents, and hence conflict with guidance and Policy BE1 of the Hinckley and Bosworth Local Plan.

3.2.5 The Council raised no specific objection to mast two. The Inspector, after considering the location adjacent to the gable of the dwelling, and lower height than mast one, when in the retracted and extended positions, concluded that mast two would not harm the character and appearance of the area or the outlook of neighbouring residents.

3.2.6 The Inspector acknowledged that external aerials were a common feature of the area but these were lower and less bulky. The technical need for the height and assistance such facilities can be to emergency services was also considered, however these did not outweigh the previous concerns of the Inspector.

### 3.2.7 INSPECTORS DECISION

**SPLIT DECISION. THE APPEAL WAS ALLOWED IN RESPECT MAST TWO AND DISMISSED IN RESPECT OF MAST ONE. (OFFICER RECOMMENDATION)**

## 4. **FINANCIAL IMPLICATIONS (DB)**

4.1.1 None arising directly from this report

## 5. **LEGAL IMPLICATIONS (MR)**

5.1.1 None

## 6. **CORPORATE PLAN IMPLICATIONS**

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

- Safer and Healthier Borough.

## 7. **CONSULTATION**

None

## 8. **RISK IMPLICATIONS**

None

## 9. **RURAL IMPLICATIONS**

None



10. **CORPORATE IMPLICATIONS**

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

- |                                 |                              |
|---------------------------------|------------------------------|
| - Community Safety implications | None relating to this report |
| - Environmental implications    | None relating to this report |
| - ICT implications              | None relating to this report |
| - Asset Management implications | None relating to this report |
| - Human Resources implications  | None relating to this report |
| - Voluntary Sector              | None relating to this report |

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Background papers: Appeal Decisions

Contact Officer: Sarah Humphries ext 5680

**PLANNING COMMITTEE - 4 AUGUST 2009**

**REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**

**RE: APPEALS PROGRESS**

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**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

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Background Papers:

Contact Officer: Tracy Darke, extension 5692

## PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 24.07.09

**WR - WRITTEN REPRESENTATIONS**

**IH - INFORMAL HEARING**

**PI - PUBLIC INQUIRY**

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
09/00015/PP	SH	08/01102/FUL	WR	Richard Timson	Land Rear of 60 Lychgate Lane Burbage	<i>Start Date</i> 3rd Party Notification Questionnaire Statement of Case Comments	13.07.09 27.07.09 27.07.09 24.08.09 14.09.09
09/00014/PP	JH	09/00336/FUL	IH	Mr Aaron Smith	Land Adjacent to Lodge Farm Wood Road Nailstone	<i>Start Date</i> Statement of case Comments	06.07.09 11.08.09 01.09.09
09/00012/PP Conjoined with 09/00011/PP	LF	09/00202/FUL	WR	Mr M Ketcher	White Gate Farm Mythe Lane Witherley	<i>Start Date</i> Statement Final Comments	22.06.09 03.08.09 24.08.09
09/00011/PP	LF	08/00995/FUL	WR	Mr M Ketcher	White Gate Farm Mythe Lane Witherley	<i>Start Date</i> Statement Final Comments	18.06.09 03.08.09 24.08.09
09/00013/ENF	JH	09/00159/UNBLD	PI	Mr Robert Hodgetts	Land to the north of Bagworth Road Nailstone	<i>Start Date</i> Final Comments	05.06.09 07.08.09
09/00010/COND	CH	08/00349/FUL	WR	JS Bloor	Land at Sword Drive/Stoke Road Hinckley	<i>Start Date</i> Comments	05.06.09 07.08.09
09/00008/PP Conjoined with 09/00006/PP	LF	09/00029/FUL	PI	Graham Wragg	Common Farm Barton Road Carlton	<i>Start Date</i> Awaiting Decision	16.04.09
09/00006/PP	LF	08/00978/FUL	PI	Mr G Wragg	Common Farm Barton Road Carlton	<i>Start Date</i> Awaiting Decision	25.03.09
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> Awaiting Decision	19.02.09

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

**DECISIONS RECEIVED FOR THE FOLLOWING APPEALS**

09/00009/PP	RW	08/00787/FUL	WR	Gary Smith	2 Hawthorn Rise Groby	Split	13.07.09
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Rolling April - July 2009/10

**Planning**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision			
					Allow	Spt	Dis	Allow	Spt	Dis	
5		4	1			1		4			

**Enforcement**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn