

Date: 14 December 2009

To: All Members of the Planning Committee

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

Copy to all other Members of the Council

(other recipients for information)

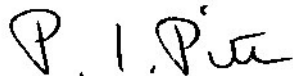
Dear Councillor

There will be a meeting of the **PLANNING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **TUESDAY, 22 DECEMBER 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
22 DECEMBER 2009
A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 24 November 2009 attached marked 'P42'.

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 'P43' (pages 1 – 100).

8. HIGHAM ON THE HILL AND THE ASHBY CANAL CONSERVATION AREA STATEMENTS & MANAGEMENT PLANS

Report of the Director of Community & Planning Services attached marked 'P44' (pages 101 - 110).

The appendices to this report are available in the Members' Room and on the Council's website.

- RESOLVED 9. APPEALS LODGED AND DETERMINED
- Report of the Director of Community and Planning Services attached marked 'P45' (pages 111 – 112).
- RESOLVED 10. APPEALS PROGRESS
- Report of the Director of Community and Planning Services attached marked 'P46' (pages 113 – 115).
- RESOLVED 11. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY
- RESOLVED 12. MATTERS FROM WHICH THE PUBLIC MAY BE EXCLUDED
- To consider the passing of a resolution under Section 100A(4) of the Local Government Act 1972, excluding the public from the undermentioned item of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs 2 and 10 of Part I of Schedule 12A of the Act.
- RESOLVED 13. PLANNING ENFORCEMENT ACTION
- Report of the Director of Community and Planning Services attached marked 'P47' (pages 116 – 189).

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

24 NOVEMBER 2009 AT 6.35 PM

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

Mrs M Aldridge, Mr JG Bannister, Mr CW Boothby, Mr JC Bown, Mr WJ Crooks, Mr DM Gould, Mrs A Hall, Mr P Hall, Mr CG Joyce, Mr K Morrell, Mr K Nichols, Mr LJP O'Shea, Mr BE Sutton, Mr R Ward and Ms BM Witherford.

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

Officers in attendance: Mr P Béar, Mr N Cox, Mrs T Darke, Miss R Owen, Mr R Palmer, Mr TM Prowse, Mr M Rice and Miss E Shaw.

275 MINUTES (P36)

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

RESOLVED – the minutes of the meeting held on 27 October 2009 be confirmed and signed by the Chairman.

276 DECLARATIONS OF INTEREST

No interests were declared at this stage.

277 DECISIONS DELEGATED AT PREVIOUS MEETING

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

- a) 09/00432/OUT: Refusal had now been issued;
- b) 09/00692/COU: Refusal had now been issued.

278 RATBY VILLAGE DESIGN STATEMENT SUPPLEMENTARY PLANNING DOCUMENT – ADOPTION (P38)

Members gave consideration to the Ratby Village Design Statement SPD and Sustainability Appraisal. The Ward Members for Ratby welcomed the document.

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

RESOLVED – the adoption of the Ratby Village Design Statement SPD be supported.

279 THE BOROUGH OF HINCKLEY AND BOSWORTH (LAND AT THE JUNCTION OF MILL STREET AND MOAT WAY BARWELL) TREE PRESERVATION ORDER 2009 (P39)

Members were presented with a report which outlined the above Order. On the motion of Mr Bown, seconded by Mr Crooks, it was

RESOLVED – the Order be confirmed as made.

280 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P37)

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) 09/00711/FUL – Erection of 2 dwellings, 81 Kirkby Road, Barwell – Mrs C Holt

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

RESOLVED – the application be approved subject to the conditions contained within the officer's report and a note to applicant requesting that street lighting doesn't intrude on existing dwellings.

- (b) 09/00716/FUL – Demolition of garage and erection of 1 dwelling, Spring Cottage, Main Street, Cadeby – Mr Tim Clinton

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

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

- (c) 09/00735/CONDIT – Variation of condition 3 of Planning Application 02/00401/COU to amend the hours of opening, 7 The Horsefair, Hinckley – Mr Huseyn Altı

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

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

- (d) 09/00749/FUL – Retention of extractor flue pipe, 102 Rugby Road, Hinckley – Mr Jogi Singh

Notwithstanding the officer's recommendation to approve the application, it was MOVED by Mr O'Shea and seconded by Mr Ward that the application be refused due to the impact on the visual amenity of the neighbouring properties.

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

Mr Inman, Mr Bannister, Mr Boothby, Mr Crooks, Mrs Hall, Mr Hall, Mr Joyce, Mr Morrell, Mr Nichols, Mr O'Shea, Mr Sutton, Mr Ward and Mrs Witherford voted FOR the motion (13);

Mr Bown and Mr Gould voted AGAINST the motion (2);

Mr Mayne and Mrs Aldridge abstained from voting.

It was also requested that enforcement action be taken immediately.

The motion was declared CARRIED. It was therefore

RESOLVED – the application be refused on grounds of impact on visual amenity and enforcement action be instigated.

- (e) 09/00767/COU – Change of use of existing dwelling house to place of worship and teaching, day centre, living accommodation and formation of parking area, Stretton House, Watling Street, Burbage – Sachkhand Nanak Dham

Mr Bray left the meeting at 7.38pm and returned at 7.40pm.

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

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

Mr Bray left the meeting at 7.50pm.

- (f) 09/00775/FUL – Erection of 2 dwellings with associated garaging and access, Land Adjacent Church Farm House, Church Lane, Cadeby – LT Ensor Settlement

Mr Bray returned at 7.54pm. Mr Bill left the meeting at 7.56pm and returned at 8.00pm.

Notwithstanding the officer's recommendation that the application be approved subject to conditions, Members expressed concern that the properties were very close to the narrow and busy road. It was MOVED by Mrs Hall and seconded by Mr Hall that Members be minded to approve the application but that discussions be held with the applicant with regard to the house on the south side being set back a total of 5m from the road. Upon being put to the vote the motion was CARRIED. It was therefore

RESOLVED – the application be approved subject to the conditions contained in the officer's report and late items and the Director of Community & Planning Services be requested to ask the applicant to set back the abovementioned property.

- (g) 09/00791/FUL – Proposed Farmhouse with associated double garage, Land Adjacent New House Farm, Stapleton Lane, Dadlington – Mrs Anne Morris

It was reported that this application had been withdrawn.

Messrs Bown and Gould left the meeting at 8.10pm.

- (h) 09/00813/COU – Change of use of agricultural land to landing and taking off of microlight aircraft (renewal), Cottage Farm, 2 Cottage Lane, Norton Juxta Twycross – Mr D Corbett

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

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

Messrs Bown and Gould returned at 8.14pm and 8.15pm respectively.

- (i) 09/00840/TEMP – Temporary occupational dwelling, Stanmaur Farm, Breach Lane, Earl Shilton – Mr C Klenk

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

RESOLVED – subject to no significant material observations being received by the end of the consultation period expiring on 25 November 2009, the Director of Community and Planning Services be granted delegated powers to issue a refusal of planning permission for the reasons stated in the officer's report and late items.

- (j) 09/00660/FUL – Residential development for 84 dwellings including provision of open space, new access arrangements and other associated works, Greyhound Stadium, Nutts Lane, Hinckley – Crest Nicholson Operations Ltd

Mr Crooks left the meeting at 8.35pm and returned at 8.37pm. Mr Inman left the meeting at 9.04pm and Mr O'Shea left at 9.08pm. Messrs Inman and O'Shea returned at 9.12pm.

Notwithstanding the officer's recommendation that the decision be delegated to the Director of Community and Planning Services due to there being 15 days remaining to resolve the outstanding issues, some Members were not supportive of the application. It was MOVED by Mr Joyce and seconded by Mr Nichols that the application be refused on all highways grounds contained within the County Council's response.

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

Mr Crooks, Mrs Hall, Mr Hall, Mr Joyce, Mr Morrell, Mr Nichols, Mr Sutton and Mrs Witherford voted FOR the motion (8);

Mr Mayne, Mr Inman, Mr Bannister, Mr Boothby, Mr Gould, Mr O'Shea and Mr Ward voted AGAINST the motion (7);

Mrs Aldridge and Mr Bown abstained from voting.

The motion was declared CARRIED. It was therefore

RESOLVED – the application be refused on all highways grounds contained within the County Council's response.

Messrs Boothby and O'Shea left the meeting at 9.23pm. Messrs Bill and Bray left at 9.25pm.

281 APPEALS LODGED AND DETERMINED (P40)

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

RESOLVED – the report be noted.

Mr Bill returned at 9.28pm.

282 APPEALS – PROGRESS (P41)

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

RESOLVED – the report be noted.

283 BRIEFING NOTE: FIVE YEAR HOUSING SUPPLY SITUATION AT 1 OCTOBER 2009

Attached to the late items was a briefing note which notified Members of the five year housing supply situation.

RESOLVED – the information received be noted.

(The meeting closed at 9.30pm)

REPORT P43

PLANNING COMMITTEE

22 December 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: 09/00739/OUT
Applicant: Mr Terry Poulton
Location: The Pond Off Ashby Road Hinckley Leicestershire LE10 1SN
Proposal: DEMOLITION OF NO. 42 ASHBY ROAD, RESIDENTIAL DEVELOPMENT, FORMATION OF ACCESS AND INFILLING OF FORMER PIT (OUTLINE)

Introduction:-

This is an outline application for the demolition of number 42 Ashby Road, Hinckley the creation of an access, the filling of a former brick pit and residential development of the site. The application site consists of the existing pit which is currently full of water and an adjacent piece of land between the pit and the cemetery which has outline permission for residential development (05/00684/OUT) and is subject to a separate item on this agenda to extend the time limit on that permission (09/00778/EXT).

The application site is bounded by Ashby Road Cemetery to the south, by a strip of land with Ashby Road residential properties beyond to the west, by Asda supermarket to the north and by a public footpath with the Ashby Road Cemetery extension beyond to the east.

The application is in outline form with only access for consideration at this point and all other matters reserved. Indicative layout plans have been submitted which suggest how the site could accommodate 70 dwellings in a mix of semi-detached and terraced properties. The application also shows a pedestrian and cycle access to the site between 78 and 80 Ashby Road.

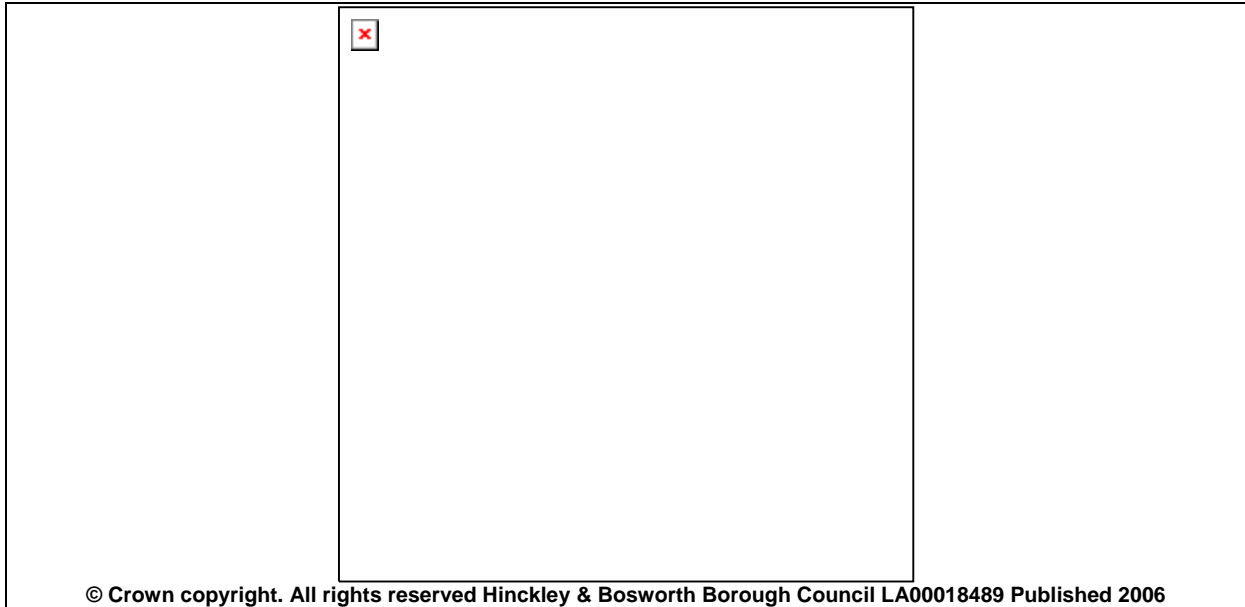
The application has been submitted with an Environmental Statement and therefore should be determined under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. While the application was not subject to pre-submission screening a scoping consultation was carried out.

The submitted Environmental Statement includes chapters on the following issues: Geotechnical Report; Transport Assessment; Flood Risk Assessment; Phase 1 Ecological Study; Tree Survey; Air Quality Assessment and a Noise Impact Assessment. The application has also been supported by a Non-Technical Summary of the Environmental Statement, a Bat Survey and a Design and Access Statement which states that "the scheme is inclusive and integrates all aspects of the key urban design principles. It is a highly efficient and environmentally sound use of previously used land that is entirely appropriate within the local context. It balances the need to provide additional housing within the Borough whilst also meeting the Green Infrastructure aspirations of the Council and enhances the ecology of the site."

History:-

09/00778/EXT	Extension of Time for Extant Planning Permission 05/00684/OUT for Outline Residential Development	Pending Decision
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05/00684/OUT	Residential Development	Appeal Allowed on	30.01.07
05/00563/FUL	Demolition of 42 Ashby Road and Construction of Temporary Access	Refused	03.11.05



Consultations:-

No objection has been received from the Highways Agency.

No objection subject to conditions have been received from:-

Severn Trent Water Ltd
Head of Business Development and Street Services (Waste Minimisation).

Director of Highways, Transportation and Waste Management (Highways) has issued an initial response which requests further information on the potential for increasing non-car based journeys, raises concerns that the figures for traffic generation do not provide a robust assessment, requests further information on the impact on two-way traffic flows and the percentage increase in the number of HGVs on the Ashby Road and raises concerns with the indicative site plan.

Director of Community Services (Archaeology) state that they do not consider the site to be in an area of high archaeological potential and would not therefore require any archaeological information to be supplied.

Director of Community Services (Rights of Way) has stated that it would not be practicable for the footpath to be incorporated within the development along the existing legal line and suggests that the applicant submits an application to the Borough Council for the making of an Order in respect of its official diversion along the route shown on the plan. The comments state that this application provides an opportunity to address the existing realignment around the section of the original route that has collapsed into the area surrounding the pond and the difference between the definitive route through the car park of Asda and the commonly used path.

The Director of Community Services (Ecology) recommends that surveys for reptiles and native white-clawed crayfish are undertaken prior to determination. A suitable receptor site for fish and a method of drainage should also be agreed. Further comments suggest that the site could qualify as a Local Wildlife Site and that the Pit is a Biodiversity Action Plan priority habitat (eutrophic standing water) and therefore should not be lost as the Action Plan seeks to conserve and enhance biodiversity. The comments conclude that the application should be refused on grounds that it would cause loss of a potential Local Wildlife Site and Local Biodiversity Action Plan Habitat.

The Director of Community Services (Waste and County Developments) states that they are not convinced that reliance on Class 1 or Class 2 of Table 6/1 of the Specification of Highway Works would constitute conformity to the WRAP protocol criteria and that the filling operations need to incorporate processed material to comply with the WRAP exemptions which has been pre-processed or is processed on site. The comments request additional information to be provided including the potential source and exact nature of fill material, lorry routing, details of the method of fill, noise impacts of the filling operations and raise queries with the appropriateness of the dust monitoring and controls proposed and the 12 hour working day in proximity to residential properties.

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

- a) Director of Community Services (Ecology) – Do not request a formal contribution
- b) Director of Children and Young People's Service (Education)– request £2,904 per dwelling towards the local primary school at Holliers Walk. The local high and upper schools have surplus capacity
- c) Head of Commercial and Support Services (Libraries)– request £54.35 per two bedroomed house and £63.41 per 3/4 or 5 bedroomed house
- d) Director of Highways, Transportation and Waste Management (Civic Amenity) – request £45.40 per dwelling towards new or improved Civic Amenity Site Infrastructure at Barwell.

The Leicestershire Constabulary Crime Reduction Officer states that the Design and Access Statement makes reference to designing out crime and measures that will be taken to combat crime within the new scheme. Concerns are raised regarding the lack of natural surveillance to the footpath and cycle links to Ashby Road and that areas of open space are tucked away behind dwellings creating vulnerable pockets that could be used for gathering spaces. A request for £606 per dwelling towards resourcing future policing in the locality has been made.

The Environment Agency objects to the proposal on the following grounds:-

1. The information submitted does not demonstrate that the risk of pollution to controlled waters is acceptable.

The application fails to give adequate assurance that the risks of pollution are understood and that measures for dealing with them have been devised as the conceptual model does not consider the potential contamination risks from the adjacent historic landfill. The Environmental Statement does not include a detailed method statement relating to the filling

of the pit, details on the criteria by which materials will be deemed suitable for use as fill and the management control of imported materials are required. The applicant has failed to demonstrate sufficient understanding of the hydro geological regime at the site and the impact both the de-watering and subsequent filling of the pond will have on the local ground and surface water environment.

2. On the absence of an acceptable Flood Risk Assessment.

The lake currently provides floodplain storage for Sunnyside Brook which discharges into and flows through the lake. In order to mitigate against the loss of floodplain storage the scheme of floodplain compensation currently fails to satisfy the Environment Agency's requirements. The scheme fails to replicate the floodplain lost and includes the use of private gardens which is unacceptable.

3. On the absence of adequate information on the risks posed by the development to water voles, bats and badgers in their habitat.

The proposed development may have a detrimental impact on the species / population and its habitat along the lake. The application does not include adequate information about the measures proposed to protect the wildlife in this location.

4. In the absence of any mitigating factors or compensatory proposals, the destruction of the lake would have a detrimental impact on biodiversity.

Standing open waters, which include lakes, are recognised as a priority habitat under the UK Biodiversity Action Plan. Development is listed as one of the major threats to these habitats. Article 10 of the Habitats Directive requires Member States to encourage the management of features of the landscape that are of major importance for wild flora and fauna. The Environment Agency considers the lake at the Big Pit on this site to be such a feature.

Head of Community Services (Land Drainage) states that surface water should be managed by sustainable methods, preferably those which disperse run-off by infiltration into the ground strata. The existing watercourse entering the site and discharging into the pit must be reinstated on a suitable alignment in the developed site, within a corridor dedicated to public open space, and there must be an adequate access margin for maintenance. Brook flows are presently attenuated by the available free volume in the pit and therefore do not stress the outlet arrangements. It will be necessary to recreate this attenuation effect on a smaller scale in a surface depression or constructed wetland area. The comments state that it will also be necessary to enhance the carry-forward flow arrangements, reducing reliance on private off-site drainage assets. Inflows from Asda and land to the east of the site which drain to the pit will need to be accommodated in the new development. A condition to cover these requirements is suggested.

Head of Corporate and Scrutiny Services (Green Spaces) comments that the drainage from the Ashby Road cemetery flows into the Pit and therefore the applicant needs to ensure that the drainage proposals adequately meet the drainage requirements for this area as to have flooding within the cemetery would be unacceptable. Concerns are raised regarding overlooking of areas of public open space and that the play area is surrounded by car parking. The reinstatement of the footpath is welcomed but accessible semi-natural green space should be provided because of the loss of the open water habitat.

Head of Community Services (Pollution) recommends that the application be refused as insufficient information has been submitted on which to determine that the amenity of the area will not be adversely affected in terms of noise, air quality and contaminated land. The

comments raise questions and requests for further information based on that submitted as follows:

Air Quality Management:-

The Air Quality Impact Assessment provides little site specific information for the assessment of the development on air quality. Further consideration and justification of the categorisation of the proposal into a medium category should be provided. Further specific information is requested regarding the mitigation measures and clarification of the equipment to be used on site for placement and compaction is sought. Further consideration of the use for real time monitoring for deposited dust is suggested.

Noise:-

The suitability of the noise monitoring sites is questioned, in particular the measurements assessing the impact of the adjacent supermarket on the end users of the development and requests that consideration should be given to seasonal changes in operations at the supermarket. There are no proposals for noise monitoring during site preparation works. Further information and clarification is sought regarding the model noise impacts on the nearest dwellings and justification for the statement that significant vibration levels are not anticipated at the nearest dwellings.

Contaminated Land:-

The comments state that the submitted report relates to the original application in 2004 and needs to be updated to take into account current policy and guidance. Ground gas concentrations may also need further monitoring. Further details are sought on the surface fill materials found around the brick pit and an updated risk estimation due to elevated levels of copper, zinc and nickel.

Site notice and Press notice were displayed and neighbours notified.

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

- a) traffic impacts as Ashby Road is a busy route in and out of Hinckley
- b) noise from additional traffic
- c) conflict with ambulances and paramedics from near by station
- d) impact on neighbours ability to exit driveways
- e) pedestrian and child safety impacts due to increased traffic
- f) impact of headlights from new access on neighbours
- g) loss of green area and wildlife
- h) impact of the volume of traffic / HGVs required to fill the pond in terms of noise, debris, and vibration and potential impact on pipes underneath the road.
- i) impact of dust from infilling on Asda's air conditioning
- j) site could provide leisure / fishing facility or wildlife park
- k) impact on neighbouring properties foundations and houses
- l) other areas in Hinckley more suitable for building
- m) safety of houses built on in filled pond
- n) loss of privacy
- o) impact on security of neighbouring properties
- p) noise from proposed access drive
- q) impact on character of the area
- r) drainage which goes into the pond will go somewhere else increasing flood risk
- s) 42 Ashby Road in keeping with the character of the area
- t) Big Pit acts as a relief valve for excess water locally

- u) pit will continue to fill once drained
- v) impact on adjacent footpath through traffic, noise and dust pollution.
- w) structure plan provides for enough housing without speculative development
- x) depreciation of house prices
- y) increase in CO2 emissions from lorries and industrial machinery
- z) design and access statement makes no reference to designing out crime
- aa) disturbance to those visiting the cemetery
- bb) site should be used for environmental education.

A Ward Councillor objects to the application on the following grounds:-

- a) the big pit should be allowed to remain as green open space in a densely populated area
- b) the area is a haven for nesting birds and an important habitat will be lost
- c) increase in traffic on already congested road network
- d) existing flooding issues in the area
- e) noise, dust and dirt from the lorry movements required to fill the pit would be totally unacceptable to local residents.

The Hinckley and Bosworth Campaign to Protect Rural England District Committee objects to the application stating that the area should be preserved as an amenity to the local residents and not used for development in an already build up area.

At the time of writing the report comments have not been received from The Primary Care Trust.

Policy:-

Planning Policy Statement 1

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

Planning Policy Statement 3

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

Planning Policy Statement 9

Biodiversity and Geological Conservation sets out planning policies on protection of biodiversity and geological conservation through the planning system.

Planning Policy Guidance Note 13

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

Planning Policy Statement 23

Planning and Pollution Control sets out national planning guidance on pollution of land, air and water.

Planning Policy Guidance Note 24

Planning and Noise guides Local Authorities on the use of planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

Planning Policy Statement 25

Development and Flood Risk aims are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk.

The Local Plan (adopted February 2001)

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

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

Policy REC2 requires all new residential development to provide outdoor play space for formal recreation.

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

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

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

Policy T5: Highway Design and Vehicle Parking Standards of the adopted Hinckley and Bosworth Local Plan refers to the application of appropriate standards for highway design and parking provision for new development.

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

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

Policy NE13 – The Effects of Development on Natural Watercourses sets out that planning permission will not be granted which would inhibit or damage the drainage functions of the natural watercourse system unless adequate on or off site protection. Alleviation or mitigation works are undertaken.

Policy NE14: Protection of Surface Waters and Ground Water Quality states that permission will not be granted for development proposals which will adversely affect the water quality and ecology of watercourses and groundwater resources.

Policy NE15: Protection of River Corridors states that permission will not be granted for development in or adjoining a river or other watercourse corridor which would either have an adverse effect on its land drainage function or result in the loss of the recreational amenity and nature conservation value of the river or watercourse corridor.

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

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

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

Core Strategy DPD (2009)

Policy 1 refers to development in Hinckley and seeks to deliver 1120 new dwellings over the plan period as well as diversifying the housing stock in the town centre.

Policy 15 seeks the provision of Affordable Housing on residential proposals within Hinckley at the rate of 20% with a tenure split of 75% social rented and 25% intermediate housing.

Policy 16 seeks residential development to provide a mix of housing types and tenures at a minimum density of 40 dwellings per hectare within Hinckley.

Policy 20 refers to Green Infrastructure and states that the implementation of this network is a priority of the council. With regards to Hinckley town centre the policy states that development should incorporate flood prevention measures and utilise existing assets, such as the Big Pit, to provide wider recreational functions.

Appraisal:-

The main considerations with regards to this application are the principle of development, impact on the highway, ecology, flooding, pollution, contributions and other matters.

Principle of Development

The site is located within the settlement boundary of Hinckley and is therefore considered acceptable in principle for residential development under Local Plan Policy RES5.

The site is identified as brownfield land in the Borough Council's Strategic Housing Land Availability Assessment 2008 and in the Inspector's Report into the previously allowed appeal.

If permitted, the proposal would help address the identified shortfall in five year housing supply calculated as 277 dwellings at the end of September 2009. As part of the application site holds an extant permission for residential development the number of dwellings which could be included in the five year supply calculations would be the difference between this scheme and the previously approved scheme. While this proposal is in outline form only and therefore final unit numbers are only estimated, it is considered that the proposal could provide around 50 additional units towards the five year supply.

Policy 20: 'Green Infrastructure' of the Submission Core Strategy makes reference to the Big Pit providing a wider recreational and flood mitigation function which is the result of a strategic level evidence based document which is to be supplemented by a PPG17 Study at the Site Allocations and Generic Development Control Policies DPD stage. The designation of the site as a local wildlife site is proposed in the Preferred Option Site Allocations document however as this has not progressed to formal adoption the Local Plan remains the lower tier of the development plan for the determination of this application.

Comments from the Director of Community Services (Waste and County Developments) raise the concern that the application does not provide adequate clarification on the nature of the fill material and therefore the infilling could be considered as a waste operation which would need to be considered by the County Planning Authority rather than the Borough Council. The applicant has submitted an Exemption Certificate issued by the Environment Agency to address these concerns. The revised comments from County Planning Officers will be reported as a late item.

Subject to addressing the concerns raised by Leicestershire County Council on who the determining Authority for the infilling operation should be, the principle of development is accepted as the application site is considered to be brownfield and within the Hinckley settlement boundary.

Impact on Highways

The non-technical summary states that the volume of inert material required to fill the pit would be approximately 75,000 square metres which would generate around 8,000 lorry movements by 9 cubic metre lorry loads. The summary suggests the operation would take a year at an average of 31 loads per day.

The initial comments from the Director of Highways, Transportation and Waste Management (Highways), as set out above, request further information regarding the likely traffic flows to the site and the percentage increase in HGV traffic along Ashby Road. Any additional information submitted to meet this request and the formal comments of Highways will be presented as a late item.

Concerns raised by Highways Officers regarding the indicative layout have been passed to the applicant for their information and would need to be addressed in any reserved matters application when layout would be considered.

Ecology

As set out above, the Director of Community Services (Ecology) has requested further information with regards to surveys for native white-clawed crayfish to be undertaken. While it is understood that the optimal time for such a survey is in the summer further discussions are taking place with Ecology Officers which will be reported as a late item.

The comments also highlight the sites potential as a Local Wildlife Site and as a Biodiversity Action Plan Priority Habitat and seek that the application is refused on these grounds.

These concerns are reflected in objections from the Environment Agency which state that the destruction of the lake would have a detrimental impact on biodiversity and that the Agency considers the lake to be a priority habitat under the UK Biodiversity Action Plan. Further to this the Environment Agency also objects to the proposals on the absence of adequate information on the risks posed by the development and suitable mitigating or compensatory measures on the likely impact on water voles, bats and badgers.

Flooding

Comments from the Environment Agency state that the submitted Flood Risk Assessment does not address concerns regarding the loss of floodplain storage provided by the existing lake and includes the use of private garden space as floodplain storage which is unacceptable. Discussions between the applicant's drainage consultants, the Environment Agency and the Borough Council's Drainage Officers are continuing. Any additional information or progress made will be reported as a late item.

Pollution

The extensive comments detailed above from the Head of Community Services (Pollution) have requested further information and clarification from the applicant regarding noise, land contamination and air quality. At the time of writing this report no additional information has been submitted to address these concerns. Any information that is submitted will be reported as a late item. Head of Community Services (Pollution) has requested that based on the submitted information the application should be refused on these grounds.

While the comments from Head of Community Services (Pollution) above concern the potential impacts of pollution on human health, the concerns of the Environment Agency relate to the impacts of pollution on the environment. They have raised an objection to the development on the basis that the information submitted with the application does not demonstrate that the risk of pollution to controlled waters is acceptable. In particular, the conceptual model within the ground investigation does not consider the potential contamination from the adjacent historic landfill. Again while the applicant has stated they are seeking to address this concern at the time of writing this report no further information has been submitted. Any further submissions will be presented as a late item.

Residential Amenity

The proposed access is shown as 3 metres from number 44 Ashby Road and 4.5 metres from number 40 Ashby Road. No. 40 does not contain any fenestration on its side elevation facing the proposed access while number 44 does. When considering the previous permission for residential development (05/00684/OUT) the Inspector considered that no. 42 has a 14 metre wide plot which was proposed to accommodate 5.5 metre access and 8.5 metres for footways, landscaping and boundary treatment. This application proposes a 7.5 metre wide access reducing the landscaping to 6.5 metres. The Inspector considered that reasonable mitigation measures could be devised to safeguard the residential amenity of adjoining occupiers to the access and included a condition to that effect. Given the significant increase in scale of this development and the proposed 8,000 lorry movements that are

required for the infilling operation, it is considered that mitigation measures could no longer be devised to safeguard residential amenity.

Further to this, it is considered that the scale of the required filling operation in close proximity to residential properties would have an unacceptable impact on residential amenity. Further information has been sought in terms of noise and dust and in the absence of further information specific reasons for refusal on these grounds are included. Notwithstanding this, it is considered that an operation of this scale in close proximity to residential dwellings, its potential timescale of at least a year of five day working weeks would create an unacceptable prolonged disturbance to residential amenity.

Contributions

Requests for contributions have been received from Leicestershire County Council and the Police Authority and the site would also be subject to contributions and on site provision of open space and affordable housing. While the applicant has submitted Heads of Terms indicating a willingness to make these contributions as the application is recommended for refusal an agreement under Section 106 has not been progressed at this time.

Other Matters

Comments raised by the Leicestershire Constabulary Crime Reduction Officer will need to be considered when the detailed layout of the scheme is agreed at reserved matters stage. This stage would also allow the opportunity for the existing footpath to be realigned on the eastern edge of the site.

Suggestions for alternative uses for the site or that other sites are more suitable for development are not considered relevant considerations in the determination of the application. The application should be considered on its merits for the use submitted. Similarly, concerns raised regarding the affect of the development on house prices are not considered relevant to planning.

Conclusion

While the application site is within the settlement boundary of Hinckley where residential development would be acceptable in principle, at the time of writing this report the applicant has not demonstrated to the satisfaction of statutory consultees that the proposal is acceptable in terms of highway impact, site ecology and biodiversity, flooding and air, noise, land and water pollution. Any further information submitted to address these issues will be presented as a late item.

Powers to delegate the decision to the Head of Planning and Community Services are sought to allow the applicant further time following Committee to address these concerns. Should the applicant be able to address all of these issues then the application will be returned to a subsequent Planning Committee meeting for determination.

Recommendation:- That the Director of Community and Planning Services be granted delegated powers to refuse the application for the following reasons unless the submission of additional information addresses all the concerns highlighted. If so the application will be returned to Planning Committee for determination.

Reasons:-

- 1 In the opinion of the Local Planning Authority, the proposed development, in particular the comings and goings of lorry movements required for the engineering operation to fill the existing pit, would have a detrimental impact on residential amenity by virtue of the noise, disturbance and dust created from the filling operation. The proposal is therefore considered to be contrary to adopted Local Plan Policy BE1.
- 2 In the opinion of the Local Planning Authority, the applicant has failed to demonstrate that the proposed development would not have a detrimental impact on water voles, bats and badgers contrary to Planning Policy Statement 9 Biodiversity and Geological Conservation.
- 3 In the opinion of the Local Planning Authority, the pit should be recognised as a priority habitat under the UK Biodiversity Action Plan as a standing open water body and therefore its loss would have a detrimental impact on biodiversity contrary to Planning Policy Statement 9 Biodiversity and Geological Conservation.
- 4 In the opinion of the Local Planning Authority, the submitted Flood Risk Assessment does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development and is therefore contrary to Planning Policy Statement 25 Development and Flood Risk.
- 5 In the opinion of the Local Planning Authority the applicant has failed to demonstrate that the risk of pollution to controlled waters from the proposed development is acceptable contrary to Planning Policy Statement 23 – Planning and Pollution Control and Policy NE14 (Protection of Surface Waters and Ground Water Quality) of the Adopted Hinckley and Bosworth Local Plan.
- 6 In the opinion of the Local Planning Authority, the applicant has failed to demonstrate that the proposed development would not have a detrimental impact on air quality in the vicinity of the development contrary to Planning Policy Statement 23 – Planning and Pollution Control.
- 7 In the opinion of the Local Planning Authority, the applicant has failed to demonstrate that the proposed development would not have a detrimental impact on neighbouring residents through noise generated by the infilling operation or the development traffic on the access drive. The noise impact of the adjacent supermarket on future residents of the site has also not been adequately explored contrary to Planning Policy Guidance Note 24: Planning and Noise.
- 8 In the opinion of the Local Planning Authority, the applicant has failed to demonstrate that the proposed development will not have a detrimental impact on the health of future residents through the submitted contaminated land assessment. The proposal is therefore contrary to Planning Policy Statement 23 – Planning and Pollution Control.
- 9 In the opinion of the Local Planning Authority, the applicant has failed to demonstrate that sufficient suitable affordable housing would be provided contrary to Planning Policy Statement 3, Policy RES3 of the adopted Hinckley and Bosworth Local Plan, Policy 15 of the emerging Core Strategy and the Council's adopted Supplementary Planning Document on Affordable Housing 2008.
- 10 In the opinion of the Local Planning Authority, the lack of any definitive measures to address the increase in pressure placed on play and open space facilities of the local area by the proposed development would not accord with Circular 5/05, Policies REC2, REC3 and IMP1 of the adopted Hinckley and Bosworth Local Plan, and the

Borough Council's Supplementary Planning Document on Play and Open Space 2008.

- 11 In the opinion of the Local Planning Authority, the lack of any definitive measures to address the increase in pressure placed on education, library facilities, waste facilities and police provision by the proposed development would not accord with Circular 5/05 and Policy IMP1 of the adopted Hinckley and Bosworth Local Plan.
- 12 In the opinion of the Local Planning Authority, the applicant has failed to demonstrate that the proposed development would not have an unduly detrimental impact on the free flow of traffic on the Ashby Road and surrounding round network contrary to PPS13, Highways, Transportation and Development and adopted Hinckley and Bosworth Local Plan Policy T5.

Contact Officer:- Philip Metcalfe Ext 5740

Item: 02

Reference: 09/00778/EXT

Applicant: Mr Terry Poulton

Location: 42 Ashby Road Hinckley Leicestershire LE10 1SL

Proposal: EXTENSION OF TIME FOR EXTANT PLANNING PERMISSION
05/00684/OUT FOR OUTLINE RESIDENTIAL DEVELOPMENT

Introduction:-

This is an application for the extension of time of extant permission 05/00684/OUT for residential development at land to the rear of Ashby Road, Hinckley.

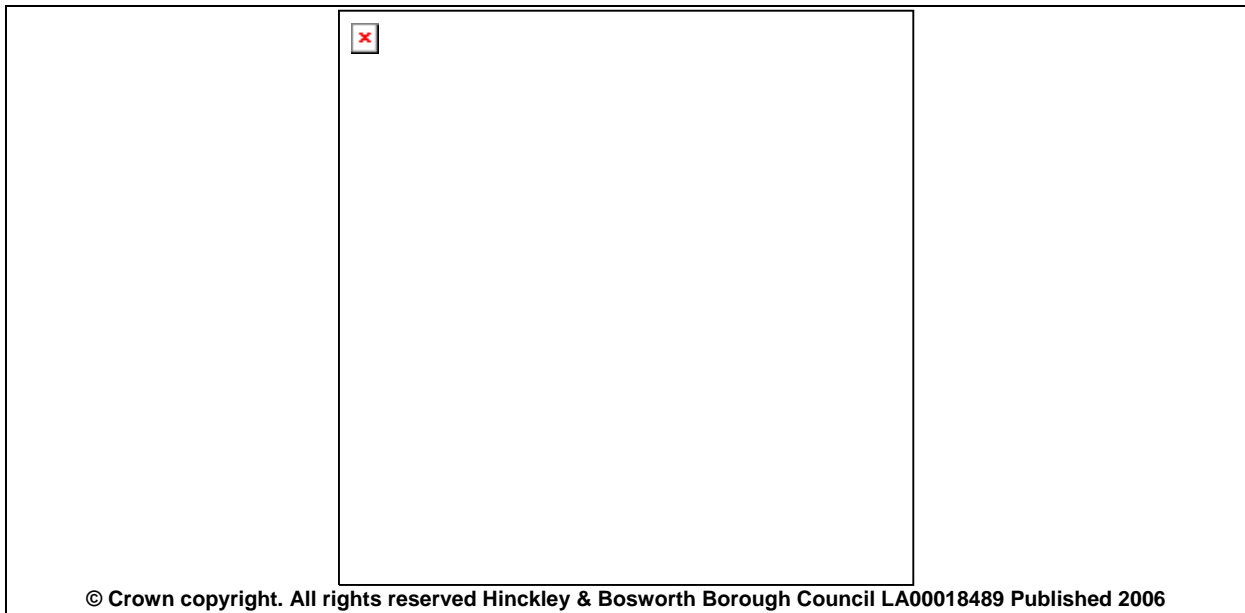
The application site consists of 42 Ashby Road and land to the rear bounded by the Ashby Road Cemetery to the south and east, residential properties facing Ashby Road to the west and by the big pit, a large body of water formed from a former brickworks to the north. This site with the water body forms a larger site which is subject to an application for outline residential development also on this agenda (09/00739/OUT).

The application site was subject to an outline application for residential development in 2005 (05/00684/OUT) which was granted on appeal. This permission is due to expire on the 30th January 2010. This application seeks to extend that period of time for a further three years through a new type of application which come into force on the 1st October 2009 formally known as an 'extension of time for the implementation of a planning permission by grant of a new permission for the development authorised by the original permission'.

The application has been supported by a Geotechnical Report, a Protected Species Survey, a Tree Survey, an extended Phase 1 Ecological Survey, a Transport Assessment and a Design and Access Statement which concludes "the scheme is sensitive to its surroundings and adheres to both National and Local Plan policies and is recommended for extension under s.96A of the Town and Country Planning Act 1990 (introduced by s.190 of the Planning Act 2008)."

History:-

09/00739/OUT	Demolition of no. 42 Ashby Road, Residential Development, Formation of Access and Infilling of Former Pit	Pending Consideration	
05/00684/OUT	Residential Development	Appeal Allowed	30.01.07
05/00563/FUL	Demolition of 42 Ashby Road and Construction of Temporary Access	Refused	03.11.05



Consultations:-

No objection has been received from:-

The Director of Community Services (Archaeology)
The Director of Community Services (Rights of Way).

No objection subject to conditions have been received from:-

Head of Community Services (Land Drainage)
Head of Business Development and Street Services (Waste Minimisation)
Severn Trent Water Ltd.

The Director of Highways, Transportation and Waste Management (Highways) refers to standing advice.

The Director of Community Services (Ecology) agrees with the conclusions of the submitted bat survey of 42 Ashby Road and the conclusions of the submitted Extended Phase 1 Survey with regards to bats and nesting birds but recommend that the site is surveyed for the presence of reptiles. The comments also agree with the conclusions of the habitat survey for Great Crested Newts. A five metre buffer zone around the pond is recommended.

Site notice and Press notice were displayed and neighbours notified.

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

- a) where will the water go and what effect will it have on underground springs
- b) impact on wildlife and nature reserve
- c) Ashby Road is a busy main road
- d) very close to traffic lights
- e) house prices will depreciate
- f) inability to exit driveway
- g) noise from additional traffic
- h) pedestrian and child safety impacts
- i) detrimental effect on standard of living.

A Ward Councillor objects to the application stating that a new planning application should be submitted and no extension of time granted.

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

Policy:-

Planning Policy Statement 1

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

Planning Policy Statement 3

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

Planning Policy Statement 9

Biodiversity and Geological Conservation sets out planning policies on protection of biodiversity and geological conservation through the planning system.

Planning Policy Guidance Note 13

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

Planning Policy Statement 23

Planning and Pollution Control sets out national planning guidance on pollution of land, air and water.

Planning Policy Guidance Note 24

Planning and Noise guides Local Authorities on the use of planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

Planning Policy Statement 25

Development and Flood Risk aims are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk.

The Local Plan (adopted February 2001)

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

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

Policy REC2 requires all new residential development to provide outdoor play space for formal recreation.

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

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

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

Policy T5: Highway Design and Vehicle Parking Standards of the adopted Hinckley and Bosworth Local Plan refers to the application of appropriate standards for highway design and parking provision for new development.

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

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

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

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

Core Strategy DPD (2009)

Policy 1 refers to development in Hinckley and seeks to deliver 1120 new dwellings over the plan period as well as diversifying the housing stock in the town centre.

Policy 15 seeks the provision of Affordable Housing on residential proposals within Hinckley at the rate of 20% with a tenure split of 75% social rented and 25% intermediate housing.

Policy 16 seeks residential development to provide a mix of housing types and tenures at a minimum density of 40 dwellings per hectare within Hinckley.

Policy 20 refers to Green Infrastructure and states that the implementation of this network is a priority of the council. With regards to Hinckley town centre the policy states that development should incorporate flood prevention measures and utilise existing assets, such as the Big Pit, to provide wider recreational functions.

The guidance document Greater Flexibility for Planning Permissions published in November 2009 states that in determining applications to extend the time limit for implementing planning permissions "Local Planning Authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date".

The guidance continues "Local Planning Authorities should, in making their decisions, focus their attention on development plan policies and other material considerations (including national policies on matters such as climate change) which may have changed significantly since the original grant of permission".

Appraisal:-

The main consideration in determining this application is therefore whether any development plan policies or other material considerations have changed significantly since the grant of permission which may lead to a different conclusion on the acceptability of the application.

The original scheme was granted on the 30th January 2005 therefore it was considered in light of the current adopted Local Plan Policies. In 2005 the scheme would have also been considered against Leicester, Leicestershire and Rutland Structure Plan which has since been superseded by the Regional Spatial Strategy for the East Midlands. While this high level policy has changed it is considered that the scheme would also be in accordance with the broad policies of the RSS which still seek to direct new development to urban areas and brownfield land. Therefore while the development plan has changed since the original decision was reached it does not lead to a different conclusion on the acceptability of the application.

The second consideration is therefore whether any material consideration is now applicable that would not have been considered in 2005. Since 2005 national Planning Policy Statements have been issued on a number of topics, those considered of relevance would be: PPS1 – Delivering Sustainable Development; the Planning and Climate Change Supplement to PPS1; PPS3 – Housing and PPS9 – Biodiversity and Geological Conservation.

It is considered that while these documents set new broad national planning policies that would be applicable they do not raise issues that would now imply that residential development of Brownfield land within an existing settlement would be unacceptable.

Therefore given that the development plan and other material considerations have not changed in a manner that would now lead to the application being refused the other consideration is whether additional conditions or Section 106 requirements should be applied.

Conditions imposed by the Inspector cover details of the reserved matters, a scheme for noise mitigation from the access, safety measures on the edge of the water body, landscaping, footpath link details, flooding, access details, land contamination and a scheme for the reinstatement of the footpath which runs along the eastern boundary of the site. Initial verbal comments from the Environment Agency suggest that they wish to alter the conditions concerning flooding though no alternative conditions have been put forward at the time of writing this report. This will be presented as a late item.

It is considered that the remaining conditions are valid and should be carried forward to this permission. The condition detailing the reserved matters will be amended to reflect the new reserved matters which came into force in 2006.

The 2005 permission included a Unilateral Undertaking agreeing to retain the pit as a water body, affordable housing provision at 20% and a contribution towards play and open space. A Section 106 agreement was also sealed which provided contributions towards education, library facilities and civic amenity. Discussions are continuing with Leicestershire County Council to agree the method of linking the previous agreements with this new permission. The outcome of these discussions will be presented as a late item.

As this application is not to be considered as a new proposition under the new regulations but considered in terms of changes to planning policy or other material considerations that have occurred since the previous permission it is considered that the extension of the scheme is acceptable subject to the signing of a legal agreement linking the previous agreements to this new permission.

RECOMMENDATION:- That subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 to provide the contributions and obligations attached to the previous permission, the Director of Community and Planning Services be granted powers to issue Planning Permission subject to the conditions below. Failure to complete the agreement by the 11th January 2010 may result in the application being refused:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the Inspector's decision, the changes to the development plan, other material considerations since that decision and representations received, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as the site is within the

settlement boundary, the access would be suitable to serve the development, and a Section 106 agreement would secure appropriate contributions towards infrastructure requirements.

Hinckley & Bosworth Borough Council Local Plan (2001) :- RES5, BE1, T5, IMP1, REC2, REC3, NE12

- 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 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 details in condition (2) above shall include the following:-
 - (a) The provision to be made for vehicle parking and turning within the site
 - (b) The provision to be made for loading and unloading within the site
 - (c) The method of disposal of surface and foul water drainage, which shall be on separate systems
 - (d) The provision to be made for screening by walls and fences
 - (e) The provision of open spaces within the site
 - (f) The phasing of the development
 - (g) The floor levels of the proposed dwellings in relation to the existing ground levels and finished levels of the site.
- 4 No development shall take place until a comprehensive and detailed assessment of the impact of the proposed access on adjacent residential properties and mitigation measures to be carried out, to include details of all acoustic walls and fences to be provided along the boundary of the access, have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.
- 5 No development shall take place until a comprehensive and detailed assessment of the safety measures to be undertaken on the northern boundary of the site with the pit have been submitted to and approved in writing by the local planning authority. The approved safety measures shall be implemented prior to the first occupation of any dwelling hereby permitted and shall thereafter be retained.
- 6 The details in condition (2) above shall include a hard and soft landscaping scheme to specify the following:-

- (a) the proposed finished levels or contours
 - (b) the means of enclosure
 - (c) car parking layouts
 - (d) other vehicle and pedestrian access and circulation areas
 - (e) hard surfacing materials
 - (f) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.)
 - (g) proposed and existing functional services above and below ground (e.g. drainage, pipelines, manholes, supports, etc.)
 - (h) retained historic landscape features and proposals for restoration, where relevant; along with details of trees to be retained and measures for their protection during construction
 - (i) planting plans
 - (j) written specifications
 - (k) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
 - (l) implementation programme.
- 7 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.
- 8 No development shall take place until details of the proposed footpath link between footpath U76 and Ashby Road have been submitted to and approved in writing by the local planning authority. The footpath link shall be constructed in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.
- 9 Development shall not begin until an assessment has been carried out into the potential for disposing of surface water by means of a sustainable drainage scheme (SUDS), in accordance with the principles of sustainable drainage systems set out in Planning Policy Statement 25: Development and Flood Risk (PPS25), and the results of that assessment have been provided to the local planning authority. The assessment shall take into account the design storm period and intensity; methods to delay and control the surface water discharged from the site; and, measures to prevent pollution of the receiving groundwater and/or surface waters.
- 10 Surface water drainage works shall be carried out in accordance with details that have been submitted to and approved in writing by the local planning authority before the development commences. Those details shall include a programme for implementing the works. Where, in the light of the assessment required by condition (9), the local planning authority concludes that a SUDS scheme should be implemented, details of the works shall specify:-
- (a) A management and maintenance plan, for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker or any other arrangements to secure the operation of the scheme throughout its lifetime.
 - (b) The responsibilities of each party for implementation of the SUDS scheme, together with a timetable for that implementation.

- 11 The approved method for disposal of surface and foul water drainage shall be constructed in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.
- 12 Prior to being discharged into any watercourse, surface water sewer or soak away system, all surface water drainage from parking areas and hard standings shall be passed through trapped gullies with an overall capacity compatible with the site being drained.
- 13 Means of vehicular access to the residential development hereby permitted shall be from the site of 42 Ashby Road only. Notwithstanding the details shown on Drawing No. 15600_02-FIGURE 3.dwg, details of the width and radii of the access shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. The access shall be constructed in accordance with the approved details prior to the first occupation of any dwelling hereby permitted.
- 14 No development approved by this planning permission shall be commenced until:-
 - (a) A desk-study has been carried out which shall include the identification of the previous site uses, potential contaminants that might reasonably be expected given those uses and other relevant information. Using this information a diagrammatical representation (Conceptual Model) of the site for all potential contaminant sources, pathways and receptors shall be produced.
 - (b) A site investigation has been designed for the site using the information obtained from the desk-study and Conceptual Model. This should be submitted to and approved in writing by the local planning authority prior to the investigation being carried out on the site. The investigation must enable a risk assessment to be undertaken relating to ground and surface waters both on and off the site which may be affected, refinement of the Conceptual Model, and the development of a Method Statement detailing the remediation requirements.
 - (c) The site investigation has been undertaken in accordance with details approved by the local planning authority and a risk assessment has been completed.
 - (d) A written Method Statement detailing remediation requirements, including measures to minimise the impact on ground and surface waters, using the information obtained from the site investigation has been submitted to the local planning authority. This should be approved in writing by the local planning authority prior to the remediation being carried out on the site.
 - (e) The works specified in the remediation requirements have been completed in accordance with the approved scheme.
 - (f) Appropriate validation that the remediation requirements have been implemented in accordance with the approved scheme has been submitted in writing to the local planning authority.
- 15 If during development works any contamination should be encountered that has not been appropriately considered in the Method Statement, then details should be submitted immediately to the local planning authority, and any revised remediation requirements should subsequently be carried out in accordance with a revised

scheme of works submitted to and approved in writing by the local planning authority prior to the commencement of the revised remediation works. Appropriate validation that the revised remediation works have been implemented in accordance with the approved revised scheme shall be submitted in writing to the local planning authority prior to the first occupation of any dwelling hereby permitted.

- 16 Prior to the commencement of the development hereby permitted a scheme for the re-instatement or diversion of footpath U76 and the reinstatement of the watercourse shall be submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for its implementation which shall be coordinated with the refilling of the pit with water. The scheme shall be implemented in accordance with the approved details and shall be completed prior to the first occupation of any dwelling hereby permitted.

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 development does not have a detrimental impact on adjacent residential properties to accord with policy BE1 of the adopted Local Plan and PPS24 Planning and Noise.
- 5 To ensure the retention of the Pit does not create a danger to future occupiers of the site to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 6 To enhance the appearance of the development to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 7 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 8 To ensure the proposed footpath is safe and accessible to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 9 To ensure the development is provided with satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 10 To ensure the development is provided with satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 11 To ensure the development is provided with satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the

risk of pollution to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.

- 12 To protect the water environment in accordance with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 13 To ensure the access meets the design standards of Highways, Transportation and Development and accords with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 14 To ensure the safe development of the site and to protect amenities of future occupiers of the development to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 15 To ensure the safe development of the site and to protect amenities of future occupiers of the development to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 16 To ensure the footpath and waterway are reinstated to accord with Policies BE1 and NE13 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 25 Flood Risk.

Notes to Applicant:-

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

Contact Officer:- Philip Metcalfe Ext 5740

Item: 03

Reference: 09/00761/FUL

Applicant: Mr And Mrs Everson - Crane

Location: The Pool House Newtown Linford Lane Groby Leicestershire

Proposal: CONVERSION, EXTENSIONS AND ALTERATIONS OF BUILDINGS TO FORM THREE DWELLINGS

Introduction:-

This application seeks full planning permission for conversion, extensions and alterations to buildings to form three dwellings. The buildings form part of a larger complex of buildings known as Pool House, accessed via a secure, gated road off Newtown Linford Lane, Groby. The application includes:- the extension and conversion of an existing outbuilding to provide a two bedroomed dwelling (referred to as Pool House Barn); the extension and alterations of an existing building to provide a two bedroomed dwelling (referred to as Maids Cottage); and extensions and alterations of an existing outbuilding to provide a three bedroomed dwelling (referred to as Pool House Lodge). An application for listed building consent has also been submitted (reference 09/00762/LBC) and is reported as the next item on this agenda.

Pool House is located to the north of Groby, adjacent to the southern edge of Groby Pool and set within 2.1 hectares. The complex comprises of Pool House itself (a Grade II listed building, unoccupied since the 1970's and in need of extensive and significant renovation work), together with curtilage buildings comprising of: an annexe known as Maids Cottage; Pool House Cottage (a residential conversion of a range of outbuildings occupied by the applicants); Pool House Barn (an additional range of outbuildings currently used for domestic storage purposes) and Pool House Lodge (the former lodge to the main Pool House). There is a belt of mature trees to the south, west and north of the complex that provides effective screening, some of which are protected by a Tree Preservation Order. Beyond this to the south and west are agricultural fields.

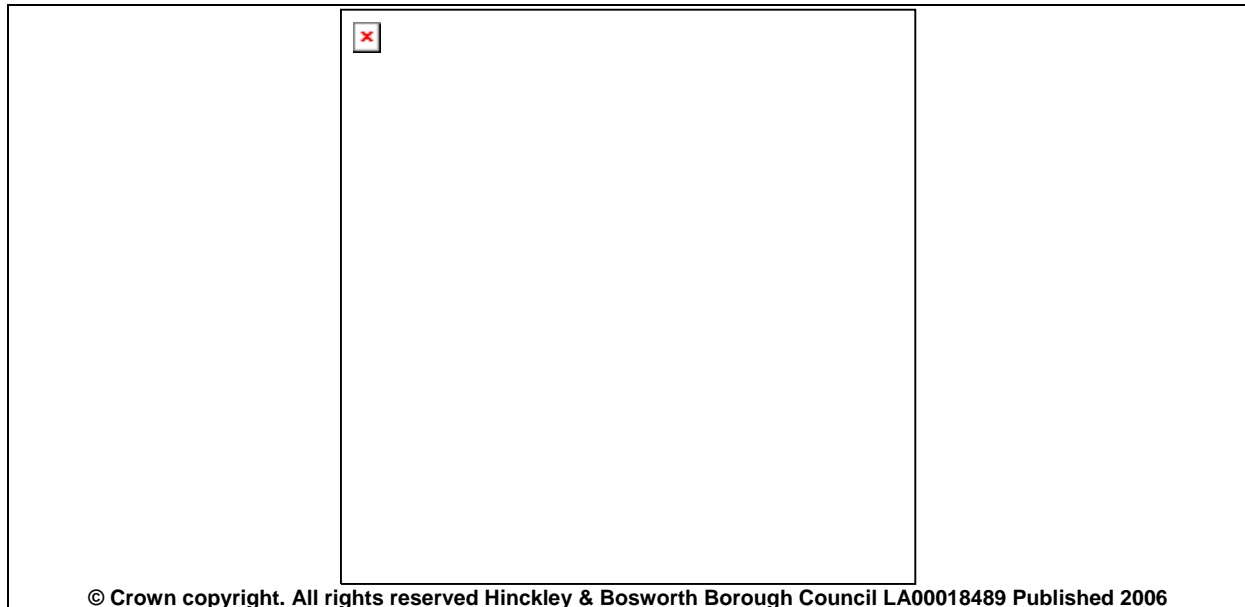
A Planning Statement and Design and Access Statement have been submitted in support of the application. They describe the individual proposals in detail, describe the site and surroundings and outline relevant development plan policy and national planning guidance. They conclude that the proposals present a sensitively designed scheme which does not have a detrimental impact upon the appearance and amenity of the open countryside; secure the setting of the listed buildings; seek to preserve and reflect original architectural and historic features of the buildings and provide an attractive and suitable use for the existing vacant buildings. The proposals are in accordance with both national and local plan policy.

A Structural Engineers Report has been submitted in respect of the 'Lodge' building which concludes that overall the structure is generally in very good condition for its age and type of construction and could be returned to residential use subject to general repair and refurbishment and localised rebuilding to the left rear corner.

A Tree Survey submitted with the application appraises eleven trees within the vicinity of the proposed development and recommends that five of these be removed due to very limited safe life expectancy and substantial sections of dead wood. A Protected Species Survey has also been submitted. The survey findings indicate that Pool House and the 'Lodge' are likely to have been used at a low level and intermittent nature, such as for foraging and as a night perch and there is nothing to suggest that a roost is present.

History:-

98/00746/LBC	Alterations and Extension to Outbuildings	Approved	11.11.98
93/01056/LBC	Alterations to Garage	Approved	07.02.94
93/00744/4L	Alterations and Extensions to Outbuildings	Approved	30.09.93
93/00743/4	Alterations and Extensions to Outbuildings	Approved	30.09.93

**Consultations:-**

No objections have been received from Groby Parish Council.

No objections have been received subject to conditions from:-

Natural England
Severn Trent Water Limited
Director of Highways, Transportation and Waste Management (Highways)
Director of Community Services (Ecology).

Environment Agency objects to the application and recommends refusal of the application in the absence of a Flood Risk Assessment as parts of the application site lie within Flood Zone 3 defined by Planning Policy Statement 25 as having a high probability of flooding.

Director of Community Services (Archaeology) comment that the impact of the proposals on the listed building cannot be adequately assessed on the basis of the currently available information and require a Historic Building Impact Assessment to be carried out prior to determination of the application.

Groby Village Society comment that work is required to stop the deterioration of the property and the proposals will contribute to this. Concern is raised regarding the use of weatherboarding. A replanting scheme should be included to replace any trees lost.

Head of Community Services (Land Drainage) does not object and provides advice on the suitability of soakaways and that the sewage treatment plant proposal will require the consent of the Environment Agency and must comply with their conditions.

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

English Heritage

National Forest Company
Friends of Charnwood Forest
Head of Corporate and Scrutiny Services (Green Spaces).

Policy:-

Central Government Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' in paragraph 5 states that planning should facilitate and promote sustainable and inclusive patterns of development by: protecting and enhancing the natural and historic environment, the quality and character of the countryside and existing communities; and ensure high quality development through good and inclusive design and efficient use of resources.

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' outlines the Government's objectives for rural areas. All development in rural areas should be well-designed and inclusive, in keeping and scale with its location and sensitive to the character of the countryside and local distinctiveness. Paragraph 17 supports the re-use of appropriately located and suitably constructed existing buildings in the countryside where this would meet sustainable development objectives. The criteria for permitting such conversion and re-use should take account of the potential impact on the countryside and wildlife, local social needs, the suitability of different types of buildings and of different scales for re-use and the need to preserve, or the desirability to preserve buildings of historic or architectural importance or interest, or which otherwise contribute to local character.

Planning Policy Statement 9 (PPS9): 'Biodiversity and Geological Conservation' seeks to protect and enhance sites of ecological and geological importance. Paragraph 8 refers to proposed development on land within or outside a SSSI and states that conditions should be used to mitigate any harmful aspects of development and where possible ensure the conservation and enhancement of the sites biodiversity or geological interest.

Planning Policy Guidance 15 (PPG15): 'Planning and the Historic Environment' sets out the Government's policies for the identification and protection of historic buildings and other elements of the historic environment. Paragraph 1.4 advises that most historic buildings can be put to good use and that the avoidable loss of fabric through neglect is a waste of economic, as well as environmental, resources. Paragraph 2.16 states that the setting of a listed building is often an essential part of the buildings character, especially if the grounds have been laid out to compliment its design or function. Paragraph 2.18 states that new uses may often be the key to a building's preservation and planning controls should be exercised sympathetically where this would enable a historic building to be given a new lease of life.

Local Development Framework

The Core Strategy sets out the overarching strategy and core policies to guide future development in the borough. Paragraph 3.28 highlights the need to safeguard valuable assets such as listed buildings and sites of cultural heritage interest. Spatial Objectives 10 and 11 seeks to protect the borough's archaeological heritage and safeguard, enhance and where necessary regenerate the borough's distinctive built environment including listed buildings.

Policy 21: National Forest requires the siting and scale of development to be related to its setting within the Forest and respect the character and appearance of the wider countryside.
Policy 22: Charnwood Forest requires development to retain local character and compliment the local landscape and manage and enhance the cultural heritage of the area.

Local Plan Policy

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

Policy BE1 of the adopted Local Plan seeks to secure attractive development and to safeguard and enhance the existing environment. Planning permission will be granted where the development complements or enhances the character of the surrounding area.

Policy BE3 of the adopted Local Plan requires special justification for the demolition or partial demolition of listed buildings. Policy BE4 of the adopted Local Plan requires applications for alterations and additions to listed buildings to demonstrate that the proposal would not detract from the architectural or historical character of the building. Policy BE5 of the adopted Local Plan seeks to preserve and enhance the settings of listed buildings through the design of new development in the vicinity, having regard to the scale, form, siting and design of the proposal. Policy BE6 states that the change of use of listed buildings will be granted where the change would represent the best reasonable means of conserving the character, appearance, fabric, integrity and setting of the building and would not necessitate alterations considered to be detrimental to its character as a building of special architectural or historic interest.

Policy BE20 of the adopted Local Plan supports the re-use and adaptation of rural buildings in principle subject to: there being no adverse impact on the appearance or character of the landscape; the building being structurally sound and capable of conversion without significant adaptation and rebuilding; there being no adverse effect on the design, character, appearance or setting of the building; and there being no extensions that would significantly alter the form and general design of the building that would detract from its character or appearance. Extensions and alterations should match or compliment the original building material.

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

Policy NE14 of the adopted Local Plan states that planning permission will not be granted for development proposals which will adversely affect the water quality and ecology of watercourses and groundwater resources unless satisfactory arrangements are made for the disposal of foul sewage and surface water.

Policy NE20 of the adopted Local Plan states that planning permission will not be granted for any speculative new building that does not relate to the development or use of the Pool House and Groby Pool within the area or would be detrimental to the area covered by the Site of Special Scientific Interest (SSSI).

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

Groby Pool and Pool House Planning Brief (adopted 1988) provides supplementary guidance on the site and requires that new development including alterations, extensions and new

buildings should be of the highest standards in terms of design and materials. Private residential use of Pool House and the outbuildings is listed as an acceptable use.

Appraisal:-

The main considerations with regards to this application are the principle of development; its impact on the listed building and its setting; its impact on the character and appearance of the surrounding landscape within the Charnwood Forest and National Forest; drainage; ecology; and highway safety.

Principle of Development

Both government guidance (in PPS7) and policies NE5 and BE20 of the adopted Local Plan support the reuse or change of use of suitable existing buildings within rural locations for residential purposes subject to a number of criteria being met, including the buildings being structurally sound and capable of conversion without significant adaptation and rebuilding. Whilst written some years ago the Groby Pool and Pool House Planning Brief of 1988, in its list of potentially acceptable uses, included private residential use along with a number of other possibilities including a number of commercial type uses. Whilst the current proposals are limited to residential due to the size and location of the three buildings and their immediate proximity to the existing dwelling, Pool House Cottage, this does not prejudice other potential uses, including commercial, for the more suitable larger main house in the future. Maids Cottage and Pool House Barn are both in good structural condition in terms of the external structures. Maids Cottage was previously occupied for residential purposes but currently requires significant internal repair and renovation. Pool House Barn was renovated following previous planning permission for change of use in the 1990's and is currently used for domestic storage by the applicants in association with their occupation of the adjoining Pool House Cottage.

The structural survey carried out on Pool House Lodge confirms that the external stone walls are generally in good condition requiring good cosmetic repair but highlights the need for some localised rebuilding to one corner. The Swithland Slate roof covering has been removed by the applicant to prevent loss following earlier loss of building materials from the site and is currently covered by a tarpaulin sheet to prevent water ingress. However, the Survey confirms that the structure is capable of carrying the loads on it and shows no indication of roof spread.

Impact on the Listed Building and its Setting

The main part of Pool House has been vacant for a number of years and as a result its condition deteriorated considerably. Following their purchase of the property the applicants have undertaken significant works to make the property water tight and to secure it from further deterioration, vandalism and theft.

The proposals for Maids Cottage (two-storey) include a modest two-storey extension to the northern elevation (facing Groby Pool) to provide a kitchen/dining room and second bedroom. As a result of the lower ground level at this point the extension creates a subordinate gable to the existing gable at first floor and replicates the form of the existing monopitch roof structure at ground floor. As a result of the siting, scale and design of the extension, it would not significantly alter the overall form and general design of the building or adversely affect its character or appearance or that of the wider setting. The alterations include the demolition of two small relatively recent unsympathetic flat roof extensions that link the cottage to the main house and replacement and additional timber cottage style windows in keeping with the previous conversion of Pool House Cottage.

The proposals for Pool House Barn (single and 1½ storey) include a modest 1½ storey extension to the west elevation to provide a living area and an en-suite facility to a bedroom. By virtue of the accommodation to be provided at first floor the extension is still subordinate to the existing 1½ storey element of the existing building and the same scale to the single storey range. Existing openings are used where available and replicated in the extension on the courtyard (south) elevation. Additional fenestration is included on the north elevation to provide improved amenity. Whilst additional openings are not normally encouraged, the previous conversion of the adjoining Pool House Cottage also includes windows to this elevation and would not, therefore, appear to be unreasonable in this case. As a result of the siting, scale, design and appearance of the extension, it would not significantly alter the overall linear form and general design of the building or adversely affect its character or appearance or that of the wider setting.

The proposals for Pool House Lodge (1½ storey) include a 1½ storey extension to the north elevation to provide additional accommodation comprising of a kitchen/dining room area, utility, toilet, and third bedroom. Although the extension is relatively large in relation to the existing stone structure, it is within the footprint of previously existing buildings in this location. In addition, as a result of the lower ground level at this point the extension is also subordinate to the original stone structure which therefore remains the dominant element. Notwithstanding the comments of the Groby Village Society, in this instance, the use of weatherboarding to the walls of the extension is considered acceptable as it emphasises and compliments the stone material of the original structure and softens its appearance in relation to the historic structure. The extension has been designed to reflect the form of the raised glass roof light, particularly when viewed from the north. The demolition of the large unsympathetic flat roof garage from the east/south elevations and the replacement of the roof and glazed raised roof light will restore the Lodge to its previous form and dominance guarding the former access to the main house from the A50.

The amount of new building and alterations proposed for Pool House Lodge would normally be considered to be excessive in respect of compliance with guidance and adopted policies relating to the conversion of buildings in the countryside. However, this building is considered to be an important historic element within the context and setting of the listed building. In order to prevent its complete loss through structural deterioration and secure its structural integrity and long term viability, in this exceptional case the inclusion of a sympathetic extension and alterations is supported. PPG15 advises that planning controls should be exercised sympathetically where this would provide a historic building with a new lease of life.

Director of Community Services (Archaeology) comments that the impact of the proposals on the listed building (in particular the interior features) cannot be adequately assessed on the basis of the currently available information. However, following further discussions regarding the current structural and internal condition of the buildings, it is envisaged that the submission of additional information in the form of a photographic record of the currently existing interior may alleviate the requirement for a full Historic Building Assessment to be carried out as very little of the interior remains. Further details will be reported as a late item to this agenda.

Impact upon the Character and appearance of the Countryside

The complex of buildings is set within large grounds at some distance from the public highway and is well screened from the surrounding landscape to the south, west and north by existing topography and mature landscaping including a large number of trees, some of which are subject to a Tree Preservation Order. Long distance views of the complex are available from the north east on Newtown Linford Lane but the development would not be prominent and is well designed and sympathetic to its surroundings such that it would not

adversely affect the character or appearance of the overall setting, the surrounding landscape, the National Forest or Charnwood Forest.

The submitted Tree Survey recommends works to a number of trees within the site due to their limited future life expectancy, including the removal of five specimens. The consultation response of the Head of Corporate and Scrutiny Services (Green Spaces) in respect of these recommendations has not been received at the time of writing this report and will be reported as a late item to the agenda. Should removal be necessary, it would be possible to replace those lost by the inclusion of an appropriately worded condition in order to mitigate the resultant loss of visual amenity to the National and Charnwood Forests.

Ecology/Drainage

Natural England does not object to the proposals but require conditions to ensure protection of Groby Pool and Woods SSSI during development works. The recommendations and mitigation measures contained within the Protected Species Survey in respect of bats and other protected species should be implemented as part of the development.

The Environment Agency have raised an objection to the application as no Flood Risk Assessment (FRA) has been submitted and part of the site appears to lie within a high risk area (Flood Zone 3 as defined in PPG25). The applicants have commissioned an FRA to be carried out and the outcome will be reported as a late item to the agenda. A package treatment plant is proposed as a sustainable method for the disposal of foul drainage from the development and will require the further consent of the Environment Agency.

Highway Safety

Given the scale and nature of the development and the location and design of the existing access to Newton Linford Lane that provides good visibility, the development would not have an adverse impact on highway safety. Adequate car parking will be provided within the site. The Director of Highways, Transportation and Waste Management (Highways) does not object to the application subject to a condition requiring the permanent closure of the currently unused vehicular accesses to the site from A50 in the interests of highway safety. However, the accesses to the A50 are not within the ownership of the applicant, and are already fenced off at the boundaries of the applicant's ownership following a similar closure condition on a previous planning permission relating to the site.

Conclusion

The principle of development in respect of Maids Cottage and Pool House Barn is acceptable in policy terms. The conversion of Pool House Lodge is less straightforward given its condition but is strongly supported in this case by virtue of the importance of the building within the context of the listed building and its setting in terms of cultural heritage value.

Overall, the proposed conversion, extension and alterations of the curtilage buildings within the complex would secure their structural integrity and long term viability. These buildings make a significant contribution to the local cultural heritage and context of the site and the proposals would be sympathetic to and enhance the character and appearance of the setting of the listed building. The proposals would not have an adverse effect on the surrounding landscape, ecology, drainage or highway safety. The application is recommended for approval subject to the satisfactory resolution of outstanding issues in respect of impact on the listed building and flood risk.

RECOMMENDATION:- That subject to the satisfactory resolution of the issues raised by the Environment Agency and Director of Community Services (Archaeology) before 24th December 2009, the Director of Community and Planning Services be granted powers to issue full planning permission subject to the following conditions. Failure to resolve the outstanding issues by 24th December 2009 may result in the application being refused.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the historic fabric, character and setting of the Grade II listed building and its setting, designs and uses of materials, surrounding development, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it relates to the re-use of existing buildings of historic importance with sympathetic extensions and alterations that would secure their long term viability and enhance the character and appearance of the listed buildings and the setting; and would not have an adverse effect on the character or appearance of the surrounding landscape, ecology, drainage or highway safety.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, BE3, BE4, BE5, BE6, BE20, NE5, NE14, NE20, and T5.

Local Development Framework:- Core Strategy Policies 21 and 22

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 Notwithstanding the details on the submitted block plan, before occupation of any of the dwellings hereby approved, full details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved details and thereafter so maintained.
- 3 Notwithstanding the submitted details, all materials to be used in the development hereby permitted shall be in accordance with a schedule of materials and finishes including bonding and pointing which shall first have been submitted to and approved in writing by the Local Planning Authority. The materials agreed should be maintained thereafter.
- 4 All works making good to the existing fabric of the building shall be carried out in reclaimed materials which shall match the existing in size, colour and texture and which shall be bonded and pointed in the manner prevailing in the building.
- 5 Notwithstanding the information submitted, before the works hereby permitted commence full details of all rainwater goods, windows, conservation roof light and doors including detailed drawings to a scale of 1:10, shall be submitted to and first agreed in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved details.
- 6 All services including meter boxes, flues and soil and waste down pipes shall be accommodated within the building unless otherwise agreed in writing with the Local Planning Authority.

- 7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2: Part 1, Classes A - H inclusive and Part 2 shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.
- 8 Notwithstanding the submitted details, before any development commences, full details of the method of disposal of surface and foul water drainage shall be submitted to and agreed in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 9 Before any development commences a working design, methods statement and timetable of works to prevent any undue adverse effects to Groby Pool and Woods Site of Special Scientific Interest during construction shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.
- 10 No development shall take place until a landscaping scheme, including details of planting plans, written specifications, schedule of plants, noting species, sizes and numbers together with an implementation programme, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be implemented in accordance with the approved scheme.
- 11 The development hereby approved shall be carried out in accordance with the recommendations and mitigation plan contained within the submitted Protected Species Survey dated July 2009 carried out by Philip Irving.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To enable the Local Planning Authority to retain control over this important detail in the interests of visual amenity and to preserve the historic character and appearance of the setting to accord with policies BE4, BE5 and BE6 of the adopted Hinckley and Bosworth Local Plan.
- 3 - 6 To enable the Local Planning Authority to retain control over this important detail in the interests of preserving the historic character of the building to accord with policies BE4 of the adopted Hinckley and Bosworth Local Plan.
- 7 In the interests of preserving the historic character and appearance of the buildings and their setting to accord with policies BE1, BE4, BE5 and BE6 of the Hinckley and Bosworth Local Plan.
- 8 To ensure satisfactory drainage of the site and protect the integrity of Groby Pool and Woods Site of Special Scientific Interest to accord with Planning Policy Statement 9 and policies NE14 and NE20 of the adopted Hinckley and Bosworth Local Plan.
- 9 To ensure adequate protection is provided to Groby Pool and Woods Site of Special Scientific Interest for the period of construction and in the interests of visual amenity to accord with Planning Policy Guidance 9 and policies BE1 and NE20 of the adopted Hinckley and Bosworth Local Plan.

- 10 To enhance the appearance of the site and to ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policies BE1, NE5 and NE20 of the adopted Hinckley & Bosworth Local Plan and policies 20 and 21 of the Core Strategy of the Local Development Framework.
- 11 To ensure adequate protection of species protected by law and to ensure that any necessary mitigation measures are implemented throughout the development to accord with Planning Policy Statement 9.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 Bats have been recorded within the site and are protected by law. A watching brief (maintained by the applicant and all workers on site) for all protected species should be maintained throughout the development. 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.
- 6 In relation to Condition 4, the details shall include window and door styles, reveals, cill and header treatments and shall include the use of anti-glare glazing in accordance with the recommendations of Natural England.
- 7 In relation to Condition 6, the intended use of a Klargester type Bio-Disc System would be acceptable to the Local Planning Authority in principle but further, more precise details are required. The installation and use of such a system will require the separate consent of the Environment Agency.
- 8 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.
- 9 In relation to Condition 7, the details should include all methods of protection of the SSSI and may include aspects such as hours of operation, noise control, protective barriers, storage and disposal of materials and spoil etc.

- 10 List of Plans used in the determination of this application:- Site Location Plan at 1:1250 scale; Amended Block Plan at 1:500 scale; Plan Nos. EC/PHG/01; EC/PHG/02; EC/PHG/03; EC/PHG/04; EC/PHG/05; EC/PHG/06.

Contact Officer:- Richard Wright Ext 5894

Item: 04

Reference: 09/00762/LBC

Applicant: Mr And Mrs Everson - Crane

Location: The Pool House Newtown Linford Lane Groby Leicestershire

Proposal: PART DEMOLITION, EXTENSIONS AND ALTERATIONS OF BUILDINGS TO FORM THREE DWELLINGS

Introduction:-

This application seeks Listed Building Consent for partial demolition, extensions and alterations to three curtilage buildings of Pool House, Groby, a Grade II Listed Building with attached stable range and cottage dating from the early 18th Century with late 19th Century alterations and additions. It is located to the north of Groby, on the south side of Groby Pool. Pool House is one of the earliest foxhunting boxes to survive and was also used for fishing. The house's form reflects its specialised uses and unusual history and context as being closely associated with the beginnings of the wide popularity of foxhunting in this country as well as the recreational pursuits of wealthy landowners in the 18th Century.

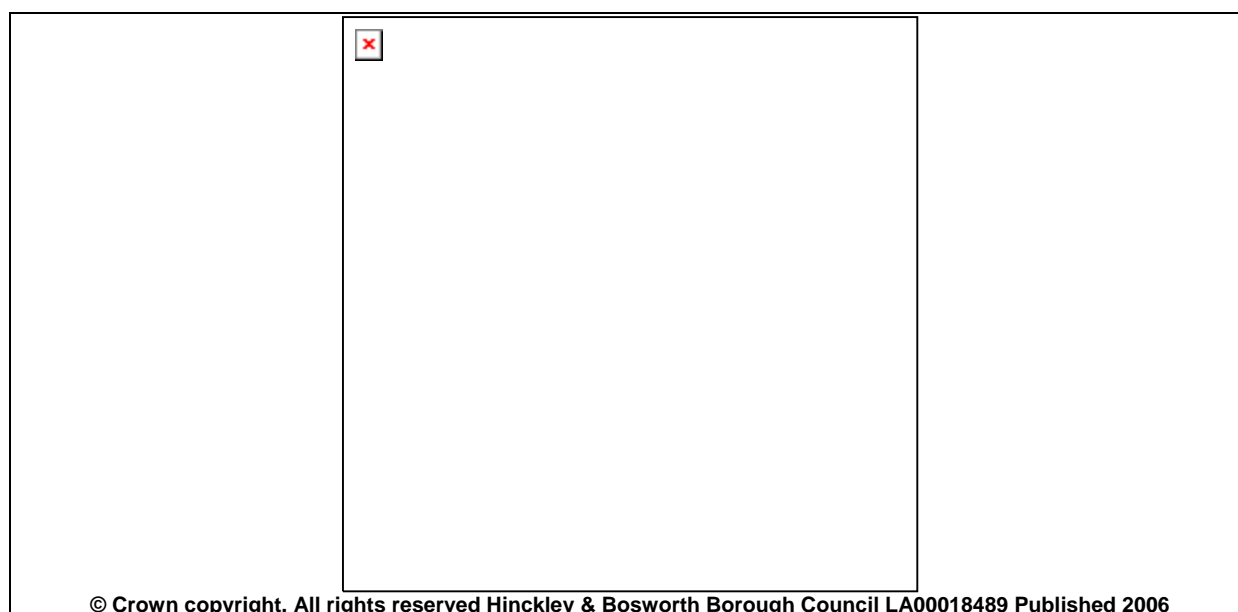
Maids Cottage is a two storey rendered annex with Swithland Slate roof located to the north west corner of the main house. Proposed works include demolition of a single storey lean-to structure incorporating a toilet and store on the north elevation together with two unsympathetic and relatively recent flat roof links to the main house on the south elevation. A two-storey extension would be added to the north elevation. Additional windows and doors are to be created and existing windows frames replaced. The first floor and all internal fittings have been removed following deterioration and damage as a result of the building being unoccupied therefore the proposals would require comprehensive internal fittings for residential use but the internal chimney stack/fireplaces would be retained.

Pool House Barn is part of a longer range of brick built outbuildings of single and 1½ storeys located west of Maids Cottage consisting of former stables and tack rooms also having a Swithland Slate roof. Proposed works include a 1½ storey extension to the west elevation involving the removal of the existing west elevation external wall at ground floor to allow internal circulation. Additional windows and doors are to be created and existing windows frames replaced. The building was renovated in the 1990's but the proposals would still require comprehensive internal fittings for residential use.

Pool House Lodge is a detached building of 1½ storeys being of stone construction currently without a permanent roof covering. Proposed works include demolition of the derelict brick buildings to the north of the main stone structure, a 1½ storey extension to the north elevation of the stone structure to replace them, replacement of the roof structure including renovation and repair of the raised glass roof light. Additional windows and doors are to be created and existing windows frames within existing openings replaced.

History:-

98/00746/LBC	Alterations and Extension to Outbuildings	Approved	11.11.98
93/01056/LBC	Alterations to Garage	Approved	07.02.94
93/00744/4L	Alterations and Extensions to Outbuildings	Approved	30.09.93
93/00743/4	Alterations and Extensions to Outbuildings	Approved	30.09.93
93/0474/4	Change of Use of Outbuildings and Part of Main House to Conference, Design and Audio/Visual Production Offices.	Approved	01.07.93

**Consultations:-**

No objections have been received from Groby Parish Council.

No objections have been received subject to conditions from Director of Community Services (Ecology):-

Director of Community Services (Archaeology) comment that the impact of the proposals on the listed building cannot be adequately assessed on the basis of the currently available information and require a Historic Building Impact Assessment to be carried out prior to determination of the application.

Groby Village Society comment that work is required to stop the deterioration of the property and the proposals will contribute to this. Concern is raised regarding the use of weatherboarding. A replanting scheme should be included to replace any trees lost.

No response has been received at the time of writing this report from English Heritage.

Policy:-

Government Guidance

Planning Policy Guidance 15 (PPG15): 'Planning and the Historic Environment' sets out the Government's policies for the identification and protection of historic buildings and other elements of the historic environment. Paragraph 1.4 advises that most historic buildings can be put to good use and that the avoidable loss of fabric through neglect is a waste of economic, as well as environmental, resources. Paragraph 2.16 states that the setting of a listed building is often an essential part of the buildings character, especially if the grounds have been laid out to compliment its design or function. Paragraph 2.18 states that new uses may often be the key to a building's preservation and planning controls should be exercised sympathetically where this would enable a historic building to be given a new lease of life.

Local Development Framework

The Core Strategy sets out the overarching strategy and core policies to guide future development in the borough. Paragraph 3.28 highlights the need to safeguard valuable assets such as listed buildings and sites of cultural heritage interest. Spatial Objectives 10 and 11 seeks to protect the borough's archaeological heritage and safeguard, enhance and where necessary regenerate the borough's distinctive built environment including listed buildings.

Local Plan Policy

Policy BE3 of the adopted Local Plan requires special justification for the demolition or partial demolition of listed buildings. Policy BE4 of the adopted Local Plan requires applications for alterations and additions to listed buildings to demonstrate that the proposal would not detract from the architectural or historical character of the building. Policy BE5 of the adopted Local Plan seeks to preserve and enhance the settings of listed buildings through the design of new development in the vicinity, having regard to the scale, form, siting and design of the proposal. Policy BE6 states that the change of use of listed buildings will be granted where the change would represent the best reasonable means of conserving the character, appearance, fabric, integrity and setting of the building and would not necessitate alterations considered to be detrimental to its character as a building of special architectural or historic interest. Policy BE16 requires appropriate archaeological investigation and recording to be carried out where necessary.

Appraisal:-

The main consideration of this application is the impact of the proposed demolitions, extensions and alterations on the historic fabric, character and appearance of the listed building and its setting. The most important building on the site and main reason for the buildings listed status in terms of architectural merit is the southern element of the main Pool House and this would be unaffected by the proposed works. The proposals are the result of extensive pre-application discussions with Officers, including the Conservation Officer.

Impact of works on the Grade II Listed Building Complex

In terms of the impact on the special interest and fabric of the Pool House complex, the proposals preserve the buildings architectural and historic qualities. The demolition and removal of a number of unsympathetic extensions would enhance its character and appearance and the proposed extensions and alterations are well designed and sympathetic to the original structures with the use of high quality materials. The proposals would enable historic buildings to be given a new lease of life and secure their long term viability and retention for their historical importance in the context of the site as a whole.

There are a number of proposed changes to the external fenestration. Principally these involve additional windows (including conservation style roof lights) and doors and the replacement of existing frames that are in a poor state of repair. Internally there are few remaining fixtures and fittings that would contribute to the architectural interest of the buildings, the Maids Cottage and Pool House Lodge having been previously stripped out and Pool House Barn having been renovated in the 1990's. Officers have worked closely with the applicant's to ensure that each element of the proposal has been carefully considered so as to have minimum impact on the historic fabric whilst still ultimately achieving a high quality scheme with character. English Heritage has confirmed verbally that they have no objections to the scheme, their formal written response has not been received at the time of writing this report.

Conclusion

The buildings have deteriorated considerably over a number of years and subject to criminal damage despite the best efforts of the current owners to arrest that decline and protect the buildings. Unless measures are taken to bring the buildings back into use, it is likely that the decline will continue and they may be lost completely. Overall and on balance, it is considered that the proposed scheme of works would have a positive impact on the listed buildings whilst improving their structural integrity and securing their long term viability to help preserve them for their historical importance within the context of the site as a whole. The proposals would enhance not detract from the architectural or historical character or appearance of the listed building and its setting and as such it is considered that the proposed works should be supported. The proposals would therefore accord with Planning Policy Guidance 15 and policies BE3, BE4, BE5 and BE6 of the adopted Local Plan.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the historic fabric, character and setting of the Grade II listed building and its setting, designs and uses of materials, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as: it would secure the structural integrity and long term viability of historically important curtilage listed buildings with part demolition, extensions and alterations that would be sympathetic to, and would not adversely affect, the remaining historic fabric of special architectural or historic interest; and it would enhance the character and appearance of the listed building and its setting.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, BE3, BE4, BE5 and BE6

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 Notwithstanding the submitted details, all materials to be used in the development hereby permitted shall be in accordance with a schedule of materials and finishes including bonding and pointing which shall first have been submitted to and approved in writing by the Local Planning Authority. The materials agreed should be maintained thereafter.
- 3 All works making good to the existing fabric of the building shall be carried out in reclaimed materials which shall match the existing in size, colour and texture and which shall be bonded and pointed in the manner prevailing in the building.

- 4 Notwithstanding the information submitted, before the works hereby permitted commence full details of all rainwater goods, windows, conservation roof light and doors including detailed drawings to a scale of 1:10, shall be submitted to and first agreed in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved details.
- 5 All services including meter boxes, flues and soil and waste down pipes shall be accommodated within the building unless otherwise agreed in writing with the Local Planning Authority.
- 6 Prior to the commencement of works hereby permitted a detailed method statement and drawings for the construction of all new fixtures, fittings and services shall be submitted to and approved in writing by the Local Planning Authority. The statement shall include the impact and mitigation works on the existing building fabric. All works shall be carried out in accordance with the approved scheme.

Reasons:-

- 1 To comply with the requirements of Section 18 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 2 - 5 To enable the Local Planning Authority to retain control over this important detail in the interests of preserving the historic character of the buildings to accord with policies BE4 of the adopted Hinckley and Bosworth Local Plan.
- 6 To ensure a satisfactory standard of external appearance and ensure that the mortar mix is appropriate in the interests of the condition of the building in the long term to accord with policies BE4 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Richard Wright Ext 5894

Item: 05

Reference: 09/00770/COU

Applicant: Mr Patrick Godden

Location: Upper Grange Farm Ratby Lane Markfield Leicestershire LE67 9RJ

Proposal: CHANGE OF USE OF LAND TO DOG TRAINING

Introduction:-

This is a full application for the change of use of land to the rear of Upper Grange Farm Ratby Lane Markfield, to dog training. The application site is located to the north of Ratby Lane, with its access situated between two dwellings. To the north west of the residential property, Upper Grange Farm, are dog boarding kennels, a hydrotherapy building, a barn and a ménage. To the north east is an area of hard standing, currently used as a parking area. To the west of the farm complex, located alongside the kennels is an existing indoor dog training building. To the south of the kennels is a structure, which appears to be a spectator stand. A public footpath crosses the site from south to north

The proposed training area is to be situated in a sub-divided field known as the 'bottom field', comprising an area of 0.7 hectares. The field will be split into three parcels for dog training activities. The land falls away to the north west, resulting in the application site being several metres lower than houses situated along Thornton lane. Where the footpath crosses the site, there will be a 2m wide corridor, denoted by a post and rail fence. This will form the physical sub division of the training area.

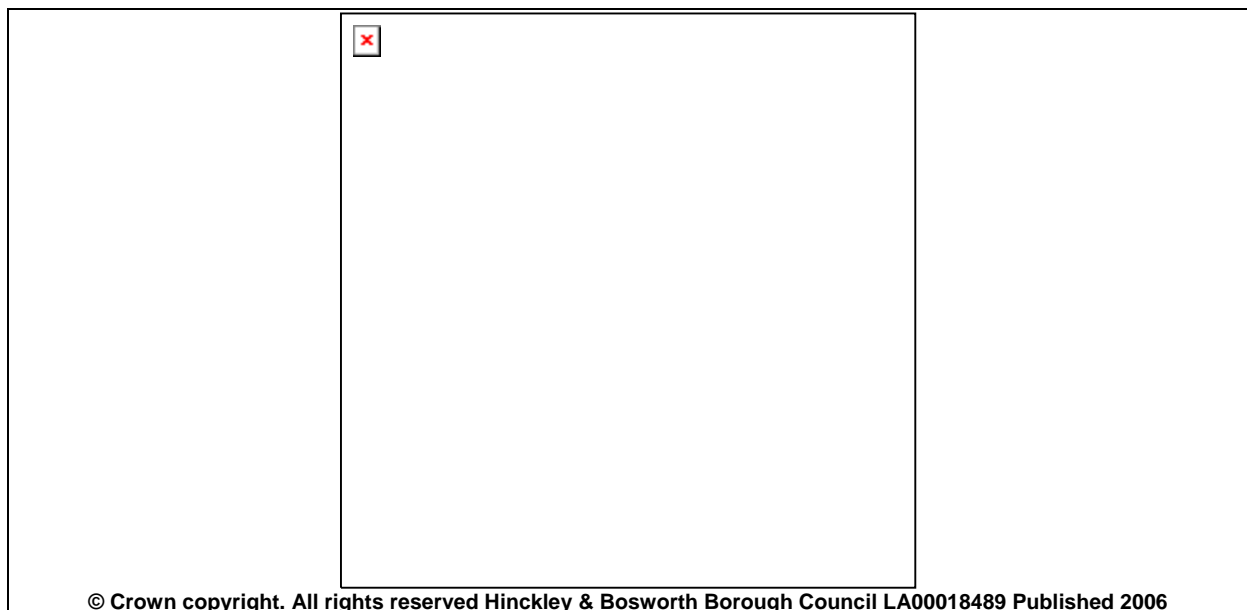
The training classes will comprise 8 - 10 dogs, accompanied by their owners and are proposed between the hours of 6.00pm and 8.00pm on weekdays and 9.00am to 6.00pm during the weekend. The only permanent structure associated with the application will be a 2.00m high acoustic screen fence to be erected along the south-eastern boundary of the field in question.

A public footpath runs south to north across the site. The site is within the open countryside and an area designated as National Forest. Half a kilometre to the west of the site is the M1 Motorway.

History:-

07/00393/CLU	Certificate of Lawful Existing Use for Dog Training	Refused	23.05.07
06/00418/FUL	Certificate of Lawful Existing Use for Dog Training Fly ball Agility Tracking and Dog Shows	Refused	10.01.07

04/00322/COU	Change of use and alterations of kennel buildings to class B1 (Offices) (Resubmitted Scheme)	Refused	19.05.04
04/00321/COU	Change of use from dog show and exercise building to B1 light industrial (resubmitted)	Refused	19.05.04
03/01280/COU	Change of use and alterations of kennel buildings to Class B1(offices)	Withdrawn	15.12.03
03/01277/COU	Change of use of dog show and exercise building to Class B1 (light industrial use)	Withdrawn	15.12.03
98/00625/FUL	Erection of indoor dog training building (Amended Scheme)	Approved	27.08.98
97/00749/FUL	Erection of indoor dog training building	Approved	11.12.97
97/00045/COU	Change of use and extension to existing building to form hydro pool and associated facilities	Approved	05.03.97
97/00022/ADV	Display of free standing illuminated signs	Approved	14.02.97



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Consultations:-

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

Ramblers Association
 Severn Trent Water
 Head of community Services (Drainage)
 Markfield Parish Council.

No objection has been received from the Environment Agency:-

No Objection subject to conditions has been received from:-

Director of Community Services (Rights of Way)
Director of Community Services (Highways).

Head of Community Services (Pollution) has commented that the design of the fence should be that described in section 8.2 and 8.3 of the noise report and this should be approved prior to development. It is also considered that the design of the gap within the acoustic barrier, required by the rights of way officer needs to be clarified prior to determination.

It was identified that the use of BS4142 as a methodology for assessing nuisance from the barking of dogs is outside the scope of the Standard. However, it was accepted that there is no standard available for the assessment of impact of noise from barking dogs and so the use of the principles of BS4142 to assess noise source against background noise is accepted.

Concerns are also raised over the gap between the proposed training field A and properties on Thornton Lane, and the consequential noise impacts. In order to reduce these impacts various conditions have been recommended.

Three letters of support have been received these suggest that dog agility is a calm activity, which is no more vocal than any other training activity; that the proposal will not result in further detriment to highway safety; that there are many other dog training establishments which are far closer to residential properties than the proposal.

Two letters of comment have been received, which raise concerns that the proposed training activities will increase distress to the kennelled dogs, raise queries over the proposed parking area and wish to ensure that any conditions placed on the application are fully enforced.

Five letters of objection have been received, these state that there will be an adverse impact on highway safety, on the public footpath, on residential amenity resultant of noise, and state that the development is inappropriate in a residential area. In respect of the alterations to the access, concerns are raised over its widening, its proximity to adjacent properties, and the likely impact on surface water flooding. Concerns are also raised over the site becoming a showground.

Policy:-

Central Government Guidance

Planning Policy Statement 7 (PPS7) Sustainable Development in Rural Areas encourages various forms of sustainable rural enterprise. In assessing such development consideration should be given to the potential impact on the countryside, landscape and wildlife.

Local Plan Policy

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

Policy BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, design, materials and architectural features; incorporate landscaping to a high standard; ensure adequate highway visibility for road users and adequate provision for parking

together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

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

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

Core Strategy

Spatial Objective 3: Strong and Vibrant Rural Communities seeks to ensure rural communities have access to a range of facilities, including leisure facilities and employment opportunities in key rural centres to support, enhance and improve the sustainability, vibrancy and vitality of our rural areas.

Policy 21: National Forest seeks to ensure that the scale of proposed development is appropriately related to its setting within the forest, that the development respects the character and appearance of the wider countryside and that the development does not adversely affect the existing facilities and working landscape of either the Forest or the wider countryside.

Appraisal:-

The main issues for consideration in this case are impacts on residential amenity, highways and character of the countryside

Residential Amenity

The main concern in this respect is the impact of the proposal in terms of noise and disturbance from vehicle movements and barking dogs.

There is a comprehensive history of noise complaints relating to this site, with the majority of complaints referring to activities taking place at the 'top fields' and from the existing kennels. Accordingly a noise abatement notice was served. Following this it was reported that dog training activities had been relocated to the bottom fields, and complainants reported improvements. This said, complainants maintained there was continued disturbance from the increased activities on site, and from activities in the parking area. In respect of the above, in his proof of evidence relating to the former enforcement appeal (07/00031/UNAETH) the Environmental Health Officer agreed that since dog training on the top fields had ceased, noise disturbance and noise impacts on residential properties were significantly reduced.

In order to demonstrate the possible harm resultant of the proposed use, the applicant has submitted a Noise Impact Assessment. This assessment was undertaken whilst a dog agility training session was being conducted. This concludes that the predicted noise impact of dog barking, measured at the location of the proposed dog agility training area, on the measured background noise levels at the NSR would be minimal. The BS4142 assessment suggested that the noise impact of a dog barking during the proposed training sessions would be of marginal significance, which should prove acceptable in this case. Further, it was identified that dog barking resultant of the training classes were infrequent, and that the few audible barks were just audible at the boundary of the NSR. Ultimately it was concluded that

following installation of the proposed 2m high close boarded fence, noise created by dogs barking during agility training should be reduced further below the existing background noise level, which would be acceptable during the proposed times of use.

Highways

Ratby Lane is an unlit Class III Road with a speed limit of 40mph. Whilst there is no sound evidence, it is envisaged that the proposed use will result in an intensification of the current, substandard access. In response to this application, Leicestershire County Highways originally recommended refusal, based on the inadequate geometry and width of the access. However amended plans have been received which address the above mentioned inadequacies. The access has been widened to 5.5 metres, with 0.5 metre margins on either side and radii have been provided to enable vehicles to pass one another at the highway boundary and enter the site in a safe manner. Accordingly Leicestershire County Highways have withdrawn their objection and revised their comments accordingly.

Character of Countryside

Although there is relatively continuous development along Ratby Lane, the open land behind the frontage has a more rural appearance. Although policy NE5 states that the character of the countryside will be protected for its own sake, the character has already been heavily influenced by the residential development and the kennels and training building. This said, a public footpath crosses the site from the access on Ratby Lane to the northern boundary. This is a significant public amenity in this semi-rural area, which may be compromised by the dog training and associated shows. Whilst some users may enjoy seeing the training, others may find it severely intrusive. Although this is a concern, owing to the fact that only a small section of the footpath will be affected, the impact does not warrant refusal of the application.

Conclusion

In considering the issues, due to the distance of the proposed training area from the properties along Ratby Lane, coupled with the noise attenuation barrier, and the results of the noise report, issues of noise and disturbance are not considered in this case to warrant refusal of the application. In respect of impacts on the character of the countryside, whilst the proposed activities will affect the public footpath which runs through the site, and the countryside character will be further altered by the proposed use, it does not warrant refusal of the application, as the original character of the area has already been altered by the existing development. Finally, in respect of highway safety, it is felt that the inadequacies can be dealt with by way of condition. Accordingly based on the above, the application is recommended for approval.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 A screen fence in accordance with the specification detailed within the Noise Impact Assessment dated 22/10/09, and in the position identified on plan 079/07/1 shall be erected prior to the first use of the dog training area, and shall be maintained thereafter.

- 3 The training classes shall not exceed 10 dogs at anytime unless otherwise agreed in writing by the Local Planning Authority.
- 4 The training classes shall only take place between the hours of 6.00pm and 8.00pm Mondays to Fridays, excluding Bank Holidays, between 10.00am and 6.00pm on Saturdays, Sundays and Bank Holidays.
- 5 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
 - proposed finished levels or contours
 - means of enclosure
 - car parking layouts
 - other vehicle and pedestrian access and circulation areas
 - hard surfacing materials
 - minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.)
 - schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- 6 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 7 The proposed outdoor dog training activities shall be restricted to the training area as defined on site location plan scale 1:1000, drawing reference 079/07/1
- 8 Before first use of the development hereby permitted, turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times.
- 9 Before first use of the development hereby permitted, the access drive, turning and parking space shall be surfaced with a porous hard bound material (not loose aggregate) for a distance of at least 7m behind the highway boundary and shall so be maintained at all times.
- 10 Before first use of the development hereby permitted, the vehicular access to the site shall be widened to an effective minimum width of 5.5 metres over a distance of at least 12 metres behind the Highway boundary. The access drive once widened shall be so maintained at all times.
- 11 Before first use of the development hereby permitted, the vehicular access to the site shall be provided within 6 metre control radii on both sides of the access and retained at all times thereafter.
- 12 Before first use of the development hereby permitted, details of parking provision within the site shall be submitted to and agreed in writing by the Local Planning Authority, once agreed the scheme shall then be implemented 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 proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.
- 3 To ensure proper control of the development and to safeguard the amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 4 To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.
- 5 In the interests of visual amenity to accord with policy NE5 of the Hinckley and Bosworth Local Plan.
- 6 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE5 of the adopted Hinckley & Bosworth Local Plan.
- 7 For the avoidance of doubt.
- 8 To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users to comply with policy T5 of the Hinckley and Bosworth Local Plan.
- 9 To reduce the possibility of deleterious material being deposited in the highway, to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 10 To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway to comply with policy T5 of the Hinckley and Bosworth Local Plan.
- 11 To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of highway safety, and to afford easy access to the site and protect the free and safe passage of traffic in the public highway, to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 12 To ensure that adequate off street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems within the area, to comply with policy T5 of the Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 List of plans used in the determination of this application:- Site Plan Scale 1:2500, Drawing Ref: 079/07/1; Planning Statement; Noise Impact Assessment.
- 6 A gap of a width of 1.2 metres should be left at the point where footpath R4 will be intersected by the timber acoustic fence and screen planting. The applicant will subsequently be responsible for controlling the growth of vegetation within the planted area so that it does not encroach upon the specified width.
- 7 The applicant will be responsible for ensuring that the line of the footpath is not directly affected by any operations associated with the development, and that free access can be exercised safely by pedestrians at all times
- 8 Any damage that may be caused to the surface of the footpath while the development is being carried out will be the responsibility of the applicant to repair at his own expense, to the satisfaction of the Highway Authority.
- 9 No additional structures either of a temporary or permanent nature should be erected across the route of footpath R4 without the written consent of the County Council having been obtained. Unless a structure has been authorised by the County Council, it constitutes an unlawful obstruction of the right of way and the Authority would be obliged to require its immediate removal.

Contact Officer:- Eleanor Shaw Ext 5691

Item: 06

Reference: 09/00811/DEEM

Applicant: Hinckley & Bosworth Borough Council

Location: Richmond Park Richmond Road Hinckley Leicestershire

Proposal: ALTERATIONS TO GROUND LEVELS AND CREATION OF DRAINAGE PROVISION

Introduction:-

This is a deemed application made under Regulation 3 of the Town and Country Planning General Regulations (1992) by the Borough Council for the installation of a new drainage provisions and minor pitch re-profiling at Richmond Park, Hinckley.

The works proposed include the installation of a network of carrier drains leading to a soakaway trench along the northern perimeter of the playing field, four lateral drains to

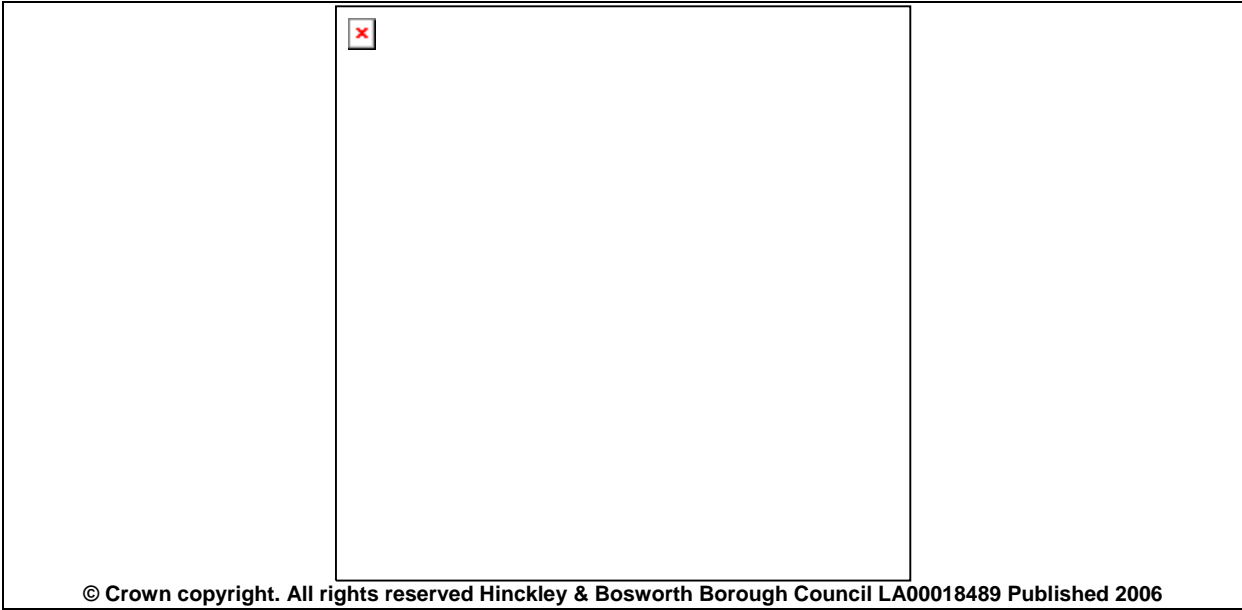
address the areas most affected by heavy rainfall and the re-profiling of the ground levels in the northwest corner of the park to improve the usability of the sports pitches.

Richmond Park is a public open space located in Hinckley. The site has recently undergone a refurbishment with new play facilities installed including an infant and junior play area and a multi-use games area. The park is also well used for sport with both football and cricket pitches located on site, along with a brick pavilion by the entrance off Richmond Road. The new Hinckley Club for Young People is being constructed to the south of Richmond Park. Footpath T60 runs along the western and northern edges of the application site, however will remain unaffected by the proposals.

The application provides full engineering details, drainage plans and the necessary detail associated with such engineering works. The application is accompanied by a detailed design and access statement and an amount of accompanying information from users of the site complaining about the quality and usability of the facility.

History:-

09/00080/FUL	Erection of youth centre and community facilities including external activity areas and parking	Approved	07.05.2009
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Consultations:-

No objection has been received from:-

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

The Director of Community Services (Rights of Way) raises no objection to the proposal subject to footpath T60 not being obstructed by the proposed works.

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

Environment Agency
Leicestershire and Rutland Playing Fields Association

Sport England
Ramblers Association
Head of Community Services (Pollution)
Neighbours
Site Notice.

Policy:-

National Planning Guidance

PPG17 sets out the Government's commitment to the need for sport and recreation development and seeks to deliver rural renewal, social and community inclusion, health and well-being and promotes sustainable development. The PPG encourages development for sport and recreation in appropriate locations.

Local Plan Policy

The site is defined as a recreation site within the adopted Hinckley and Bosworth Local Plan and the provisions of Policy REC1 apply. Policy REC 1 is concerned with safeguarding recreational sites from inappropriate alternative uses.

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

Other Guidance

The Council's Supplementary Planning Document on Play and Open Space provides further guidance on open space provisions for development.

Appraisal:-

The main considerations with regards to this application are the principle of development and the associated landscape and drainage matters.

Principle of Development

Richmond Park is an identified recreation site and is strictly controlled by Policy REC1 of the adopted local plan. This policy's intention is to prevent the unnecessary loss of recreation sites and given the proposal will improve the usability of the park and not result in any loss or recreation provision, the proposal is not in conflict with Policy REC1 and the overarching intentions of PPG17. The development is therefore acceptable in principle.

Landscape

The drainage works will all be contained within the ground and there will be no new landscape features created through the proposal. The soakaway trench to the north east corner of the site will be completely under ground with a level grassed surface covering it. The drainage works proposed, once complete will not alter the appearance of the park. No trees will be lost through the works and the grass sports pitches will be replaced following the works.

The proposed engineering works associated with the re-profiling of the pitches will result in a maximum increase in the ground level of 0.53 metres however the typical level change is

significantly less than this. This increase in the levels will only be in areas of existing hollows where water collects and the proposals will not therefore impact on the overall character of the park. The surface will remain grassed and the sports pitches will remain unaltered and once the work is complete the installation of the drainage will not be recognisable.

Drainage

The proposed drainage scheme consists of a network of carrier drains leading to a soakaway trench along the northern perimeter of the playing field. The carrier drains will be positioned adjacent to two football pitches located along the western edge of the park, and will include a further four lateral drains to address the areas most affected by heavy rainfall.

These carrier drains outfall to the northern end of the park, the lowest side of the site, where they will then discharge into a soakaway trench 2.5 metres wide by 3 metres deep. This soakaway will help to prevent surface water run off from the site, minimising impact on the surrounding area of the site. Furthermore, a high level overflow has also been included to act as a contingency for extremely intense rainfall periods (e.g. 100 year return period). The matter has been closely examined by the Head of Community Services (Drainage) and no objection is raised to the design and methods of the scheme. On this basis the proposal conforms with Policy NE14 of the Adopted Local Plan. The findings of the Environment Agency will be reported as a late item.

Conclusion

This scheme proposes a package of improvement works to this well used and important green space in Hinckley. The works will improve the usability of the sports pitches at Richmond Park and will not have any adverse impact on the character and appearance of the park once completed.

RECOMMENDATION:- That subject to no significant material observations being received by the end of the consultation period expiring on 30th December 2009, the Director of Community Planning Services be granted delegated powers in accordance with Regulation 3 of the Town and Country Planning General Regulations 1992, grant planning permission for the development subject to the following conditions:-refusal of planning permission, for the reasons outlined below.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan and would support the long term provision of recreational facilities at the site and not be to the detriment of flooding or visual amenity.

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

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

Reasons:-

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

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 Public footpath T60 runs adjacent to application site and the applicant and any contractor must ensure that free access along the line of the footpath is maintained at all times.
- 6 List of plans used in the determination of this application: 110-Rev P1, 115-Rev P3, 120-Rev P1, 121-Rev P1, 125-Rev P1 and 130-Rev P2.

Contact Officer:- James Hicks Ext 5762

Item: 07

Reference: 09/00833/FUL

Applicant: Mr Roy Marlow

Location: The Glebe Field Peckleton Common Peckleton Leicester
Leicestershire

Proposal: ERECTION OF FISHERY MANAGERS DWELLING (REVISED SCHEME)

Introduction:-

This application seeks full planning permission for an amended scheme for the erection of a permanent fishery managers dwelling at Glebe Field, Peckleton Common in association with Glebe Fisheries which covers a site of approximately 13 hectares of land to the east of Peckleton. Members may recall that a similar application was approved earlier this year in January. This amended scheme has been submitted to address proposed changes to the siting of the footprint of the dwelling (being relocated approximately 25 metres further north than previously approved) and relatively minor amendments to the design and fenestration of the dwelling and outbuildings. The overall size and scale of the dwelling remains as previously approved.

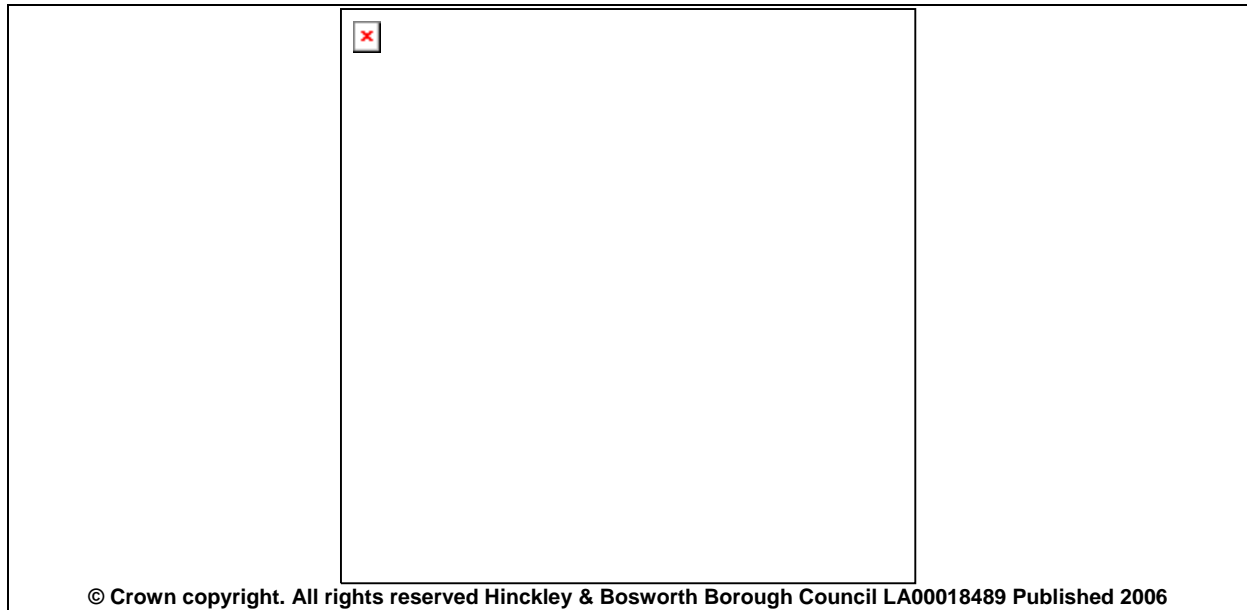
The site currently has a temporary static caravan granted planning permission for a period of three years in August 2003 that has been occupied by the applicant during this time. The site slopes generally to the south, is open in character and has discreet access from Peckleton Common from which it is screened by natural hedgerow. The car parking and support facilities are obscured from the wider countryside to the south by additional landscaping and bunds. The site has been developed as a fishery over a number of years and with continuous enlargement and investment now forms a substantial leisure facility with significant additional benefits to the wider community.

The Design and Access Statement advises that the granting of planning permission for a temporary dwelling on the site in August 2003 has established the functional need for the dwelling for the fishing enterprise. Following which, significant additional investment has been made in developing the site further. A separate Fisheries Appraisal was submitted with the previous application that provided justification for a permanent dwelling as essential to safeguard the welfare of the fish stocks and life support equipment, as the only means of safeguarding the business from vandalism, fish thefts and natural predation, and to safeguard the health and safety of visitors to the site.

A Financial Appraisal has been submitted in support of the application providing details of the financial status of the fishing enterprise and its ability to sustain the cost of a permanent dwelling of the scale proposed on the site.

History:-

08/01031/FUL	Erection of Fishery Managers Dwelling	Approved	14.01.09
07/01491/FUL	Erection of Fishery Managers Dwelling	Refused	13.02.08
02/00145/OUT	Erection of Fishery Managers Dwelling (Temporary Mobile Home)	Approved	19.08.03
02/0144/FUL	Fish Husbandry and Fishing Pools	Approved	13.09.02
99/00339/FUL	Erection of Toilet Block	Approved	27.05.99
97/01105/COU	Excavation and Construction of 4 Fishing Pools, Conservation Area and Associated Car Parking	Approved	09.03.98
94/00102/COU	Change of Use of Agricultural Land to Recreational Fishing including Excavation of Pools.	Approved	12.05.94



Consultations:-

No objection has been received from:-

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

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

The Borough Council's Agricultural Appraisal Consultant has not been formally consulted on this application as his previous consultation response is still relevant to the current application.

Director of Community Services (Ecology) raises no objection to the application but recommends that any external lighting is kept to a minimum and, if appropriate, fitted with baffles to prevent excess light spillage which may affect foraging bats.

Peckleton Parish Council object to the application on the following grounds:-

- a) inappropriate intrusion in the countryside in an elevated position outside the village envelope
- b) house will be highly visible in the position and setting proposed and will not relate to the landscape or be screened from it
- c) house is remote from entrance/parking and fishing lakes and could be sold independently in the future
- d) inappropriate design in terms of size, scale, materials or style that does not relate to the local context
- e) inaccurate statements within the application e.g. in terms of gain in residential and non-residential space
- f) no neighbour or community consultation undertaken.

Site notice posted and neighbours notified, one letter received stating no objection.

Policy:-

Central Government Guidance

Planning Policy Statement 7: Sustainable Development in Rural Areas sets out the Government's planning policies for rural areas. 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, forestry 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 of crops or products); the financial viability of the holding to sustain the worker in full time employment; the availability of suitable existing accommodation nearby. In addition, the agricultural dwelling should be of a size commensurate with the established functional requirement. Dwellings that are unusually large in relation to the needs of the unit or expensive to construct in terms of the income it can sustain in the long term should not be permitted. It is the requirements of the enterprise not those of the owner or occupier that is relevant in determining the size of the dwelling that is appropriate.

Local Development Framework

The Core Strategy sets out the overarching strategy and core policies to guide future development in the borough. Spatial Objective 5 seeks to ensure that all residents of the borough have access to a suitable home, including more limited development in rural areas to meet local need. All housing will be high quality and sustainable.

Local Plan Policy

The site is located outside of the settlement boundary of Peckleton in the countryside as defined in the adopted Hinckley and Bosworth Local Plan.

Policy BE1 seeks to ensure a high standard of design in order to 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, materials and architectural features; incorporates landscaping to a high standard; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; does not adversely affect the occupiers of neighbouring properties.

Policy NE5 states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is 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 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 RES12 states that in assessing applications for new dwellings required to accommodate a person employed in agriculture: the agricultural holding must be of a nature that requires the person to live on the site, having regard to the efficient operation of the holding; the holding must be sufficiently viable to sustain any additional worker in full time

employment; the availability of suitable alternative accommodation in the local housing market.

Appraisal:-

The principle of a dwelling on the site of the size and scale proposed has already been established by the previously approved scheme and has been justified in terms of the functional and financial tests required for occupational dwellings in the countryside contained within Annex A of Planning Policy Statement 7. The main considerations in respect of this application are, therefore, the impact that the relocation of the dwelling and changes to its design and fenestration would have on the visual appearance of the surrounding landscape and the appearance of the building.

Siting and Impact on the Landscape

The revised siting of the dwelling and outbuildings a further 25 metres to the north would locate it further behind existing earth bunds adjacent to the lake and within existing and additional landscaping proposed as part of a comprehensive landscaping scheme submitted to support the application. As a result, the relocation of the dwelling would further reduce and minimise its visual impact on the surrounding landscape when viewed from the east, west and south. An additional earth bund and further planting is proposed within the site to the northern boundary adjacent to Peckleton Common to minimise its visual impact when viewed from the public highway. The ground floor (bedrooms etc.) would be well screened from all sides whilst the first floor (living accommodation etc.) would retain views over the fishery site for surveillance and security purposes. The dwelling is sited relatively close to the existing parking area for the fishery and is accessed from it, whilst retaining sufficient distance to protect private amenity for the dwelling.

Design

Whilst the design of the proposed dwelling does not follow the traditional overall design and style of nearby dwellings, as highlighted by the comments contained in the consultation response from Peckleton Parish Council, as previously reported, it is considered to have an attractive contemporary design and appearance. The proposed use of traditional materials reflects the character of other dwellings in the surrounding area, and the incorporation of natural materials reflects its rural location. The design of the building has also had regard to sustainability and seeks to maximise the levels of natural light, warmth, drainage, energy efficiency and ventilation. The relatively minor amendments to the design and fenestration would not have an adverse effect on the character or appearance of the proposed dwelling or outbuildings or on the visual appearance of the surrounding countryside.

Other Issues

A standard occupation restriction condition was attached to the previously approved scheme to ensure that the dwelling remains ancillary to the fishery business and this is repeated within the recommendation.

The relocation of the dwelling and amendments to the fenestration would not have an adverse effect on the amenities of the occupiers of any neighbouring properties that are located at some distance from the site.

Conclusion

The proposed fishery managers dwelling is acceptable on this site in principle in accordance with the tests contained in Annex A of Planning Policy Statement 7 and the relocation of the

dwelling within the site and the amendments to the design and fenestration would not have an adverse effect on the visual appearance of the surrounding landscape.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it passes the functional and financial tests of Annex A of Planning Policy Statement 7 and would not have an adverse impact upon the character or visual appearance of the surrounding countryside.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, NE5 and RES12

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The occupation of the dwelling shall be limited to a person solely employed in the operation of The Glebe Fishery Complex or a widow or widower of such a person, and to any resident dependants.
- 3 Prior to first occupation of the dwelling hereby approved the temporary mobile home shall be permanently removed from the site.
- 4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment)(No.2)(England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A to E inclusive shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.
- 5 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling and outbuildings 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.
- 6 The approved hard and soft landscaping scheme shall be carried out in accordance with the details submitted on approved amended drawing number PL.08 D received by the Local Planning Authority on 2nd December 2009. The soft landscaping scheme shall be implemented during the first appropriate planting season following the date when the dwelling hereby approved is first ready for occupation and shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reasons:-

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

- 2 The site lies within an area of countryside where the Local Planning Authority would not normally grant permission for residential development and to accord with Planning Policy Statement 7 and policies RES12 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 3 To define the permission and to ensure that the temporary mobile home is removed from the site to protect the character and appearance of the countryside and to accord with Planning Policy Statement 7 and policies RES12 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 4 To safeguard the visual amenities and the rural character of the area to accord with Planning Policy Statement 7 and policies BE1 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 6 To enhance the appearance of the development and ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policies BE1 and NE5 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 List of Plans used in the determination of the application:- Drg. No. PL.01 A; PL.02 B; PL.04 E; PL.05 B; PL.06 E; PL.08 D; PL.10 B; PL.11 B.

Contact Officer:- Richard Wright Ext 5894

Item: 08

Reference: 09/00854/CONDIT

Applicant: Beverley Hutt

Location: Townlands C Of E Primary School Meadowcourt Road Earl Shilton
Leicester Leicestershire

Proposal: VARIATION OF CONDITION 2 OF PLANNING PERMISSION 09/00550/COU TO VARY OPENING HOURS

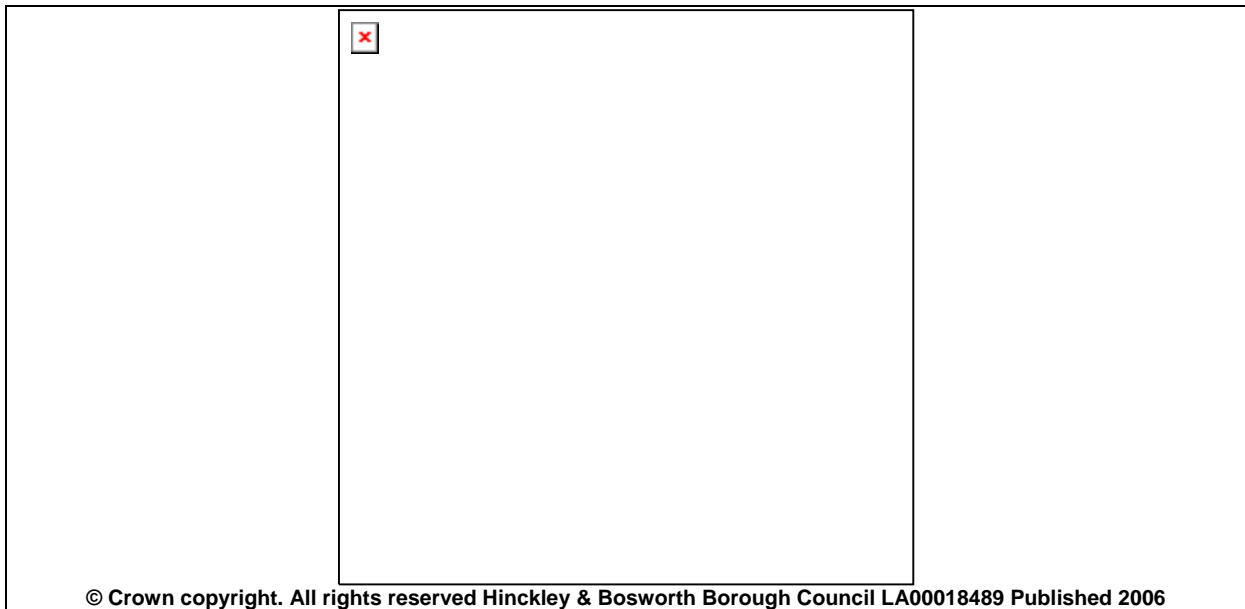
Introduction:-

This application seeks to vary condition 2 of planning permission 09/00550/COU that restricted the hours of the pre-school playgroup between 9.00am and 12.00 noon Mondays to Fridays. The pre-school playgroup operates from an existing temporary mobile classroom located within the primary school grounds. It is proposed to vary the hours to between 8.00am and 3.00pm. Originally the use of the mobile classroom was limited to the school, however the previous application removed this restriction.

The school is accessed from Meadow Court Road between residential properties to the north of the site. The main school building is located to the west of the mobile classroom that is the subject of this application, with open fields to the east and south of the site. The mobile classroom is approximately 60 metres to the south of the nearest dwelling.

History:-

09/00550/COU	Change of Use to include pre school playgroup together with education activities in association with and ancillary to the school	Approved	14.09.09
2008/00614/C	Temporary Permissions for the Retention of a Mobile Classroom	Approved	11.07.08



Consultations:-

No objections have been received from:-

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

Head of Community Services (Land Drainage).

Site notice posted and neighbours notified, 1 neighbour objection and a petition containing names from 10 addresses has been received raising the following concerns:-

- i) Will increase irresponsible on street parking and be detrimental to road safety especially during peak times. Parking should be provided within the school perimeter, currently lack of provision.
- ii) Landscaping previously planted to screen the building has been removed and should be replaced.

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

Policy:-

The site is within the settlement boundary of Earl Shilton as defined by the adopted Hinckley and Bosworth Local Plan.

Policy CF2B - states that planning permission will not be granted unless adequate proof is provided that there is a surplus of educational facilities and/or community facilities beyond the needs of the local community ; or the development of a small part of a larger site in educational or community use would result in the enhancement of facilities on the remainder of the site.

Policy BE1 - states that planning permission for development proposals will be granted where they: compliment and enhance the character of the surrounding area; ensure adequate highway visibility and parking standards; do not adversely affect the amenities of neighbouring properties; and would not be prejudicial to the comprehensive development of a larger area of land which the development forms part.

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

Appraisal:-

The main issues in respect of this application are the principle of development, its impact on the amenities of the occupiers of neighbouring residential properties and highway safety.

Principle

The proposed increase of hours of the pre school would be compatible with the other long established educational activities on the site. The increased use of this small part of the overall facility for additional pre school play group activities is considered to enhance the facilities available to the community for which a demand has been identified. The proposal would be compatible with the criteria of policy CF2B of the adopted Local Plan relating to alternative uses of existing educational sites.

Amenity and Highway Safety

The classroom is located approximately 60 metres to the south of the nearest dwelling. Given this separation distance and its previous use as a classroom the proposed use for a pre school play group would not be unduly detrimental to the amenities of neighbouring properties in terms of noise and disturbance from the use of the building.

The classroom is not obtrusive and is well maintained. Additional landscaping to provide privacy to nearby dwellings is not considered to be necessary in this case.

Neighbours have raised concerns regarding an increase in traffic and on-street parking problems. Localised traffic congestion is a common feature around schools at peak times. The proposal is unlikely to lead to additional traffic movements and on-street parking that would exceed that experienced when the school operated at full capacity and the classroom was in direct use. As such the proposed development is considered unlikely to be detrimental to either the amenities of neighbouring properties or highway safety in terms of traffic movements or on-street parking. The highway authority does not object to the application given the use and former capacity of the site.

Conclusion

The proposal would provide a community facility in an existing vacant building on a site compatible with that use and would be unlikely to be detrimental to the amenities of the occupiers of neighbouring properties or highway safety. The application is therefore 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 hours proposed there are considered no further impact on either residential amenity or highways safety, and the facility is considered to enhance the range of community and educational facilities available at the site. Accordingly the proposal is considered acceptable.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, T5, CF2B

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The use of the building for pre-school playgroup activities shall only take place between the hours of 9.00am - 3.00pm Mondays to Fridays and at no other time unless otherwise agreed in writing by the Local Planning Authority

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure proper control of the development and to safeguard the amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by

law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.

- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 List of plans used in the determination of this application:- Townlands C of E Primary School Plan A.

Contact Officer:- Eleanor Shaw Ext 5691

Item: 09

Reference: 09/00873/FUL

Applicant: Mr Frank Brogan

Location: Sycamore Farm 29 Main Street Barton In The Beans Nuneaton Leicestershire

Proposal: DEMOLITION OF EXISTING FARM BUILDINGS, ERECTION OF THREE MIXED RESIDENTIAL AND OFFICE UNITS AND EXTENSION AND ALTERATIONS TO EXISTING DWELLING.

Introduction:-

This is a resubmission of a previously approved scheme at this site for the demolition of existing commercial and farm buildings and the erection of three mixed residential and office units and extensions and alterations to the existing dwelling.

The previously approved scheme is similar to this application in terms of the creation of three mixed units and extensions to the existing dwelling; however the previous application sought to remove an agricultural occupancy condition applicable to the existing dwelling. The previous application was subject to a Section 106 Agreement which relates to the cessation of all commercial operations on land to the rear of the site (originally known as the pig unit).

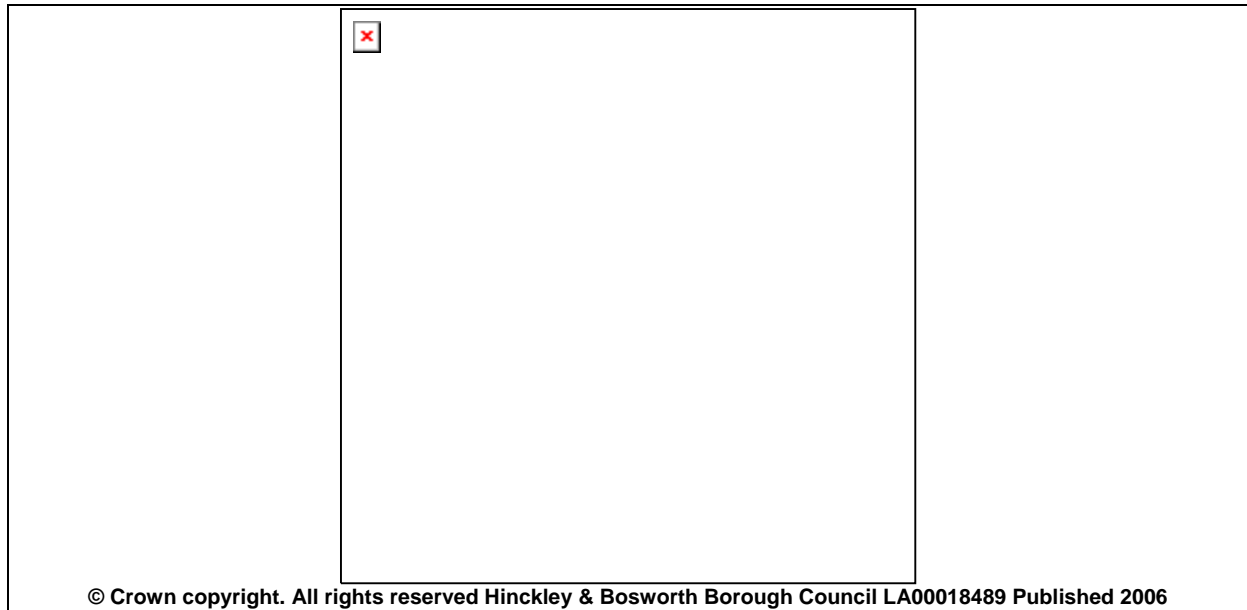
The scheme comprises the construction of 3 live/work units; units 1 and 2 are attached and provide a courtyard development. Unit 3 is located to the front of units 1 and 2. All of the proposed units incorporate two storey living accommodation with two storey work units attached. The extensions to the existing farmhouse comprise a large 2-storey side extension; the roof plane extends beyond the existing rear elevation. The extension seeks to provide a kitchen and lounge at ground floor and 2 additional bedrooms at first floor resulting in a 5 bedroomed property. In addition a storm porch is proposed to the front.

Sycamore Farm is a former agricultural enterprise that has ceased all agricultural trading. It is accessed off Main Street between Sycamore Close and Deacon Rise and two public footpaths cross the site.

A design and access statement was submitted with the application that gives a sound explanation of the design of the scheme and the relevant background associated with the previous application.

History:-

07/01424/FUL	Demolition of existing farm buildings and the erection of three mixed residential and office units, extensions and alterations to existing dwelling and removal of agricultural occupancy condition	Approved	28.02.08
98/00321/FUL	Erection of 1.8 metre high boundary wall	Approved	28.05.98
98/00154/FUL	Erection of detached dwelling and garage	Approved	31.03.98
97/00920/FUL	Demolition of existing barn erection of three new detached dwellings and conversion of one barn	Approved	11.12.97
97/00742/FUL	Demolition of existing barns and erection of five new detached dwellings	Refused	15.10.97
97/00205/FUL	Resiting of dwelling (plot 4) and substitution of house type (plot 6) within amended layout	Approved	08.05.97
95/00477/FUL	Erection of 4 dwellings and garages and conversion of barn and formation of access	Approved	26.07.95
95/00201/FUL	Erection of 4 dwellings and garages and conversion of existing barn	Refused	07.06.95
90/00166/4	Erection of fodder store canopy	Approved	24.04.90



Consultations:-

No objection has been received from:-

Head of Community Services (Land Drainage).

No objection subject to conditions has been received from:-

Severn Trent Water
Environment Agency
Director of Highways, Transportation and Waste Management (Highways)
Director of Community Services (Rights of Way)
Head of Community Services (Pollution)
Waste Minimisation Officer.

Site notice displayed and neighbours notified.

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

Shackerstone Parish Council
Ramblers Association.

Policy:-

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) advises local planning authorities to promote developments that combine a mix of land uses and makes the most efficient use of land such as through conversions of existing buildings. It advises that local planning authorities should reject poor design and that applicants for housing development should be able to

demonstrate how they have taken account of the need for good layout and design and how their proposals reflect the guidance set out in the Planning Policy Guidance.

Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) reinforces the principles of sustainable development set out in PPS1. It requires good quality carefully sited accessible development; accessibility should be a key consideration; new building development in the open countryside away from existing settlements or outside areas allocated for development should be strictly controlled; priority should be given to the reuse of previously developed sites; and all development in rural areas should be well design and inclusive, in keeping and scale with its location and sensitive to the character of the countryside and local distinctiveness.

Core Strategy

The Local Plan is in the process of being replaced by the Local Development Framework (LDF) and the Core Strategy, the first of the LDF documents, has almost completed the formal adoption process and has been found sound by the Planning inspectorate. Therefore this emerging Policy document should now be given significant weight in the planning process.

Spatial objective 13: Transportation and the need to travel seeks to reduce the need to travel by car.

Policy 16: Housing mix and Design, requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings.

Policy 19: Green Space and Play provision sets standards in relation to green space and play provision in the borough to ensure all residents have access to sufficient high quality and accessible green space and play provision.

Local Plan Policy

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; incorporate landscaping to a high standard; ensure that there is adequate highway visibility for road users and adequate provision for on and off street parking; and not adversely affect the occupiers of neighbouring properties.

Policy RES5 of the Local Plan states that planning permission will only be granted for new residential development on sites not specifically allocated in the Local Plan for housing provided they lie within an urban area or rural settlement and their siting, design and layout does not conflict with the relevant plan policies.

Policy NE5 seeks to protect the countryside for its own sake. It provides that planning permission will only be granted for development in the countryside that is important to the local economy; is for the change of use, reuse or extension to existing buildings; and for sport or recreation purposes. The supporting text to the policy is clear that new house building in the open countryside, outside established settlement boundaries and area allocated for development will be strictly controlled. It further states that the siting of any new building in the countryside is important in view of the visual impact it can have in the landscape and where possible new building should be located close to existing buildings or landscape features.

Policy REC3 requires developments of between 1 and 20 dwellings to make provision towards informal open space.

Policy T5 requires development to comply with the Highway Design Standards.

Adopted Supplementary Planning Guidance: New residential development and Supplementary Planning Guidance: Residential Extensions reinforces the Local Plan policies in respect of the siting and design of new residential development.

Adopted Supplementary Planning Document: Play and Open Space requires contributions towards informal open space that is within 400 metres of the application site.

Appraisal:-

The main considerations with regard to the application are the principle of development, siting and design, highways and infrastructure improvements.

Principle of Development

The application proposes to construct 3 live work units and extend the existing dwelling. The site is located on the edge of Barton in the Beans just outside the settlement boundary within the open countryside as identified in the adopted Hinckley and Bosworth Local Plan. Both national and local policy seeks to restrict residential development within the countryside and seeks to direct all new residential development to sustainable locations within existing urban and rural settlements. It is therefore considered that in principle the proposed development is contrary to adopted policy and does not meet the aims and objectives of the guidance laid down by Central Government.

However, the previously approved scheme (07/01424/FUL) established that there were exceptional circumstances relating to the previous operations at Sycamore Farm. It was because of these circumstances and the merits of the proposal that permission was granted subject to a S.106 Agreement which required four sites at Sycamore Farm to be cleared and their use ceased. All but one of the sites have now been cleared and the remaining site whilst having been cleared is currently subject to a Deed of Variation of the original S.106 Agreement to retain a hard standing and two buildings for agricultural purposes. This Deed of Variation was reported to Planning Committee in April 2009. The principle was accepted and delegated to officers for the agreement to be completed, however at the time of writing this has not been done.

To ensure that the commercial uses at the site are not recommenced any new grant of planning permission needs to also be tied to the requirements of the original S.106 Agreement and subsequent Deed of Variation.

Siting and Design

The proposed scheme comprises two elements that need to be assessed for siting and design, the new live/work units and the extensions to the existing dwelling. The siting of the scheme differs from the previously approved scheme however the design remains very similar.

The live/work units comprise three units; units 1 and 2 are located to the side of the existing house and unit 3 forward of units 1 and 2 towards Main Street. Units 1 and 2 have been designed to be characteristic of typical farm outbuildings, with a mix of single and two storey elements laid out in a courtyard format with gardens to the rear. Unit 3 comprises a single

storey 'L' shaped residential unit with a linked work unit. Garden area is provided to the front and to the rear and car parking is provided to the rear adjacent to the access drive.

Whilst Barton in the Beans offers a mix of architectural styles of differing mass, proportion and scale, the proposed units have been designed to emulate the traditional farmyard character both in terms of layout and design. The proportions, mass and scale are typical of a group of 19th century farm buildings. It is proposed to use traditional red brick and small clay tiles, which is common of the late 19th Century period. It is considered that the layout, design and scale is of exceptionally high quality.

The extensions to the existing farmhouse comprise a large 2-storey side extension; the roof plane extends beyond the existing rear elevation by 2.25 metres. A front storm porch is also proposed. The side extension proposed is flush with the front elevation of the existing dwelling and the ridge line is in line with that of the existing roof. This arrangement is different to the previously approved extension to the farmhouse where the front elevation is set back and a lower ridge line was proposed. The current arrangement results in a dominant mass and uncharacteristic built form that is not typical of a vernacular Leicestershire farmyard setting that the scheme seeks to emulate. The overall design is currently being discussed with the applicant with a view to incorporating a set back and lower ridge line to the extension and will be reported as a late item.

Highways

The site is located to the southwest of Barton in the Beans; access to the site is gained off Main Street. The access currently serves the commercial development on the site and previously the agricultural farm. It is therefore considered that the use of the access would not intensify with the proposed application and therefore would not cause any highway issues. Each dwelling has at least two off street car parking spaces and therefore provides adequate parking provision for the type of development. At the time of writing the observations of the Director of Highways, Transportation and Waste Management (Highways) have not been received however there was no objection to the previous scheme. The Highways comments will be reported as a late item.

Rights of Way

There are two public rights of way that cross the site, S87 and S90. S87 runs east west in front of the existing farmhouse and S90 runs north/south and crosses the access to the site. Both have been subject to Diversion Orders which routes the rights of way onto third party land and to the application site perimeter. Accordingly, the proposed development does not affect the rights of way.

Infrastructure Improvements

Residential schemes of fewer than 20 dwellings are required by policy REC3 to make provision for informal play and open space. The adopted Supplementary Planning Document requires this contribution of informal play space if there is an existing informal space within 400 metres of the application site. Barton in the Beans does not itself have any informal play space however does have a graveyard at Baptist Chapel and contributions can be secured against this important area of open space within the village. In line with the Council's Supplementary Planning Document a contribution of £171.90 per new dwelling is required. The application proposes three additional dwellings and therefore it totals £515.70p.

Conclusion

The earlier grant of planning permission (07/01424/FUL) establishes the principle of this development at this site and subject to the original S.106 Agreement and the pending Deed of Variation, the principle of the development remains acceptable.

This revised scheme continues to propose a high quality mixed use scheme, which it is considered will blend well with the surrounding area and is characteristic of farm developments in rural villages. The development, being a scheme of live/work units, is considered despite its rural location to be in line with sustainable policy issues by being both a previously developed site and proposing a low car use scheme. As such it is considered that the proposed development should be supported and is therefore recommended for approval.

RECOMMENDATION: That subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 to secure cessation of all commercial uses on the land identified within the application ref: 07/01424/FUL and return to agricultural and forestry use, and the submission of acceptable amended plans for the extension to the farmhouse, the Director of Community and Planning Services be granted delegated powers to issue Planning Permission subject to the conditions below. Failure to complete the agreement by 01 January 2010 may result in the application being refused.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

The proposal is in conformity Section 38(6) of the Planning and Compulsory Purchase Act 2004 in that there are material considerations that indicate the development is acceptable contrary the requirements of the development plan. Having regard to the pattern of existing development in the area, representations received and relevant appropriate 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 in respect of visual and residential amenity and highway safety.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, RES5, NE5, REC3, T5

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed buildings shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 Before development commences, full details of the window style, reveal, cill, and header treatment shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details.
- 5 The premises shall not be used other than for purposes falling within Class C3, B1a and B1b, as shown on the approved plan, of the Town and Country Planning (Use

- Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A to E shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.
- 7 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
- (i) means of enclosure
 - (ii) hard surfacing materials of all vehicular and pedestrian circulation areas
 - (iii) planting plans
 - (iv) written specifications
 - (v) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
 - (vi) implementation programme
- (vii) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc).
- 8 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.
- 9 Each work unit hereby approved shall be constructed in accordance with the approved plans and ready for use prior to the occupation of the residential unit to which it relates and thereafter retained in accordance with the approved plans.
- 10 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.
- 11 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 12 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 - 4 To ensure that the development has a satisfactory external appearance to accord with policy BE1 and RES5 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that the use remains compatible with the surrounding area to accord with Policies BE1 and RES5 of the adopted Hinckley and Bosworth Local Plan.
- 6 To safeguard the character of the development and in the interests of visual amenity to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 7 To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 8 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 9 To define the permission.
- 10 To ensure adequate consideration is given to ground contamination issues to avoid the risk of contamination in connection with the new development to accord with Policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 11 To ensure the site is adequate for the development hereby permitted and any mitigation measures necessary are incorporated to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 12 To ensure the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution to accord with Policies BE1 and NE2 of the adopted Hinckley and Bosworth Local Plan.
- 13 To ensure the adequate provision of public play and open space within the vicinity of the site to accord with policy REC3 of the adopted Hinckley and Bosworth Local Plan and the Supplementary Planning Document on Play and Open Space.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.

- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 In relation to condition 10 advice from Health and Environment Services is attached to this decision notice which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.
- 6 The applicant should not commence development on the construction of any of the live/work units until an application for the diversion of public footpath S87 has been submitted to and approved in writing by the relevant body.
- 7 In relation to condition 13, the total contribution required would be £515.70p.
- 8 This application is subject to a Section 106 Agreement in respect of the cessation of commercial uses associated with the application site.

Contact Officer:- James Hicks Ext 5762

Item: 10

Reference: 09/00876/CONDIT

Applicant: Tom Dwyer

Location: Land Adjacent To 391 Coventry Road Hinckley Leicestershire LE10 0NF

Proposal: VARIATION OF CONDITION NO.21 OF PLANNING PERMISSION 05/00615/FUL IMPROVEMENTS TO DODWELLS ROUNDABOUT

Introduction:-

This application should be read in conjunction with application 09/00877/CONDIT which follows on this agenda.

In May 2000 outline planning permission was granted on appeal for commercial and residential development on land north and south of Coventry Road, Hinckley. The permission to which this application relates is a subsequent detailed application, which was granted on 11 August 2005 under reference 05/00615/FUL for the erection of ten commercial units.

The permissions included conditions that limited the amount of development until interim improvements had been carried out to Dodwells Roundabout, the junction between the A5

trunk road, the A47 and Coventry Road to the west of the sites. A total of 424 dwellings have now been constructed and occupied on the land to the south of Coventry Road. Construction has commenced on the commercial site to the north, but the improvements to Dodwells Roundabout have yet to be undertaken. This application examines the current need for improvements identified by condition 21, which states:-

No more than 2500 square metres of floor space 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 current application seeks to vary this condition while restating on the opinion that it is not necessary, reasonable or precise in planning terms and is not relevant to the development. This said the applicant has offered to undertake the improvements illustrated on plan C540/1 and pay for an additional queue detector for the Long Shoot traffic signals in order to further improve access to the site.

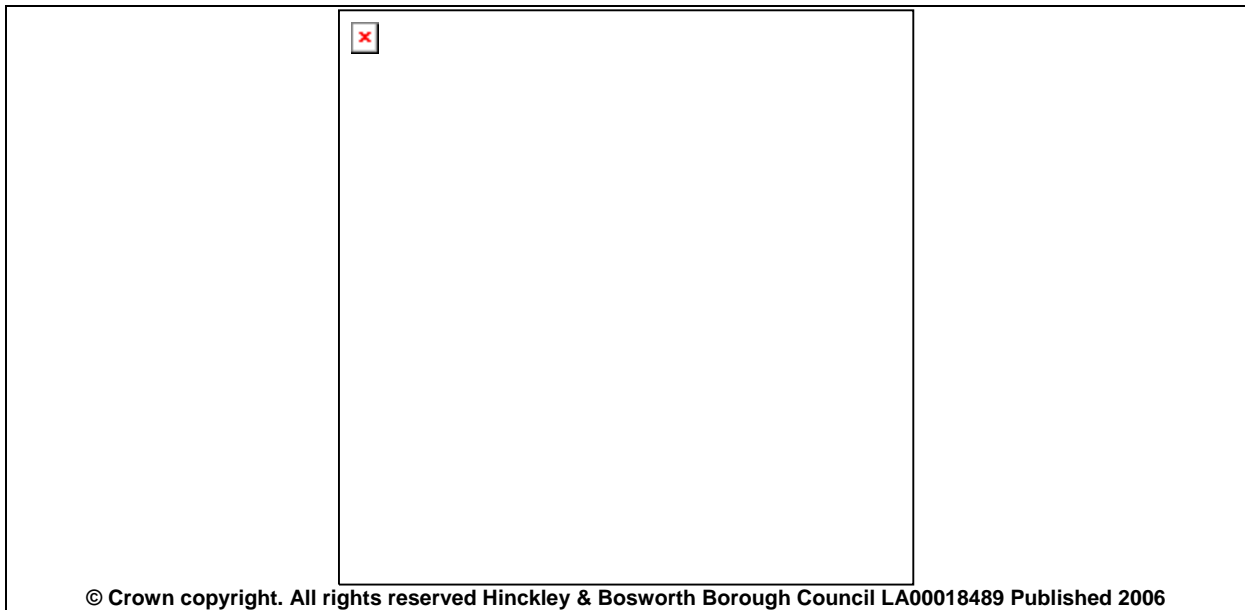
The application has been accompanied by a S-Paramics Traffic Modelling Report, an Updated Capacity Assessment, a Design and Access Statement and a Planning Statement which concludes that "condition 21 of the planning permission is ultra vires as it fails to meet the tests of necessity, precision and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

History:-

09/00340/CONDIT	Variation of condition No. 21 of planning permission 05/00615/FUL	Refused	05.08.09
09/00343/CONDIT	Variation of condition No. 13 of planning permission 07/01150/FUL	Refused	05.08.09
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	Approved	09.06.03

Allow Extension of Time for
Submission of Reserved Matters
Application

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:-

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

No objection has been received from:-

Head of Community Services (Pollution)
Head of Community Services (Land Drainage)
Nuneaton and Bedworth Borough Council.

Director of Highways, Transportation and Waste Management (Highways) have commented that the evidence provided by the Updated Capacity Assessment and the Model Development and Forecasting Report provides no clear evidence to illustrate that the impact on Coventry Road or Dodwells Road will be non material, and no suggestions as to how to manage the long queues of traffic. They go on that as they are not the Highway authority for that road, they are unable to comment on the acceptability or otherwise of the proposal to vary the condition in the context of its likely affect on the A5. This said they consider that if the development were permitted it would not be in accordance with the aims of the Leicestershire Local Transport Plan and the County Councils policy document 'Highways, Transportation and Development'. In this case they would recommend refusal of the application.

The Highways Agency have directed that Planning Permission should not be granted as various technical issues are still outstanding.

Policy:-

National Policy

Circular 11/95 Use of Conditions in Planning Permissions sets out five 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.

Policy T5 Highways Design and Vehicle Parking Standards of the adopted Hinckley and Bosworth Local Plan refers to the application of appropriate standards for highway design for new development.

Core Strategy

Spatial Objective 6: Infrastructure Provision seeks to ensure that development contributes to the necessary infrastructure required by new development, through provision of new, or where appropriate, enhancement of existing infrastructure (for example through appropriate developer contributions).

Policy 1: Development in Hinckley requires transport improvements in line with Policy 5

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) which required the improvements to be completed before 5000 square metres of employment floor space 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. Subsequently there were two applications to remove the conditions applied to the 2005 and the 2007 applications, however these applications were refused on their detrimental impact to the safety and free flow of traffic on the A5 Trunk Road. The current application seeks variation 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 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. Although their formal response has not yet been received, the Highways Agency has indicated that the modelling work that they have undertaken is at variance with the view of the applicant, and thus the current 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 has verbally commented 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. It is only this year that the applicant has challenged the need for the improvement.

(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.

Conclusion

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 advised 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 subject to no significant material observations being received by the end of the Consultation period. This significant development requires these mitigation works which is to provide the right level of infrastructure, and for the planning of the area.

RECOMMENDATION:- That subject to no significant material observations being received by the end of the consultation period expiring on 24th December 2009, the Director of Community Planning Services be granted delegated powers to issue a refusal of planning permission, for the reasons outlined below.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Reasons:-

- 1 In the opinion of the Local Planning Authority the variation of condition 21 of permission 05/00615/FUL would lead to a detrimental impact to the safety and free flow of traffic on the A5 Trunk Road which would be contrary to Policies T5 and IMP1 of the adopted Hinckley and Bosworth Local Plan and Policies Spatial Objective 6 and Policy 1 of the Hinckley and Bosworth Council Core Strategy.

Notes to Applicant:-

- 1 List of plans used in the determination of this application:- Site Plan scale 1:12500; Drg No. C540/1; Design and Access Statement; Planning Statement; S-Paramics Traffic Modelling Report and an Updated Capacity Assessment.

Contact Officer:- Eleanor Shaw Ext 5691

Item: 11

Reference: 09/00877/CONDIT

Applicant: Mr Tom Dwyer

Location: Land Adjacent To 391 Coventry Road Hinckley Leicestershire LE10 0NF

Proposal: VARIATION OF CONDITION NO.13 OF PLANNING PERMISSION 07/01150/FUL TO ALLOW AMENDED IMPROVEMENTS TO DODWELLS ROUNDABOUT

Introduction:-

Following the previous item on this agenda, this item seeks the variation 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 vary 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 floor space 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

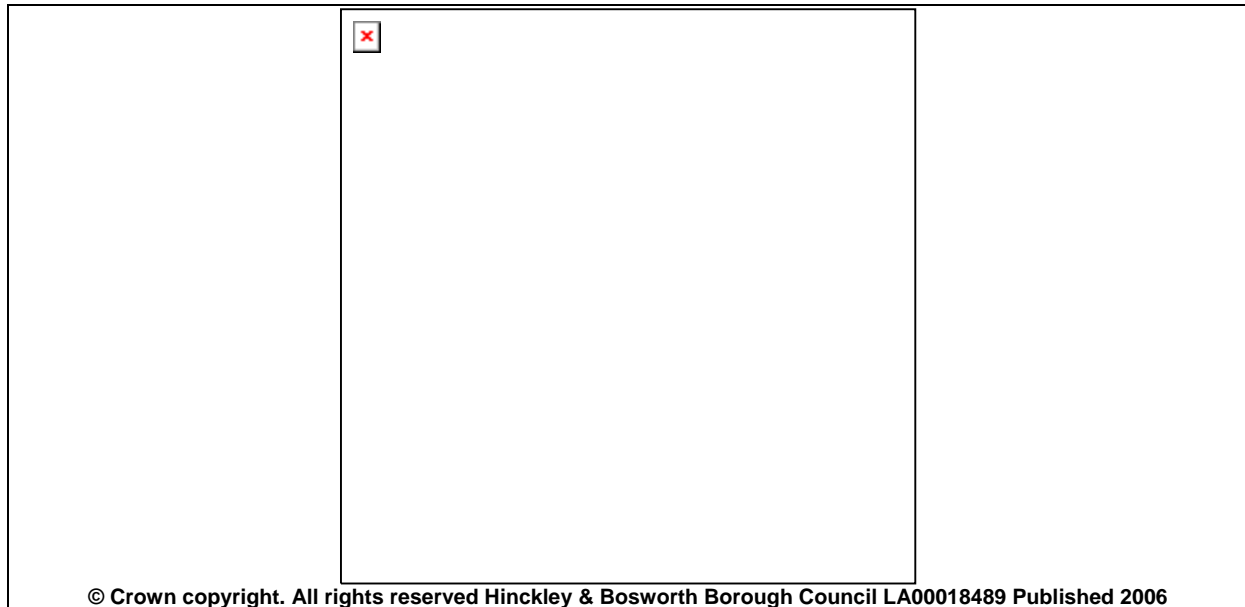
writing by the Local Planning Authority in consultation with the Highways Agency and have thereafter been substantially completed.

The improvements shown on the relevant drawing relate to the works to the Dodwell's roundabout. The applicant seeks variation of the while restating the opinion that it is not necessary, reasonable or precise in planning terms and is not relevant to the development. This said the applicant has offered to undertake the improvements illustrated on plan C540/1 and pay for an additional queue detector for the Long Shoot traffic signals in order to further improve access to the site.

The application has been accompanied by a S-Paramics Traffic Modelling Report, an Updated Capacity Assessment, a Design and Access Statement 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:-

09/00340/CONDIT	Variation of condition No. 21 of planning permission 05/00615/FUL	Refused	05.08.09
09/00343/CONDIT	Variation of condition No. 13 of planning permission 07/01150/FUL	Refused	05.08.09
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	09.05.00

**Consultations:-**

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

No objection has been received from:-

Head of Community Services (Pollution)
Head of Community Services (Land Drainage)
Nuneaton and Bedworth Borough Council.

Director of Highways, Transportation and Waste Management (Highways) have commented that the evidence provided by the Updated Capacity Assessment and the Model Development and Forecasting Report provides no clear evidence to illustrate that the impact on Coventry Road or Dodwells Road will be non material, and no suggestions as to how to manage the long queues of traffic. They go on that as they are not the Highway authority for that road, they are unable to comment on the acceptability or otherwise of the proposal to vary the condition in the context of its likely affect on the A5. This said they consider that if the development were permitted it would not be in accordance with the aims of the Leicestershire Local Transport Plan and the County Councils policy document 'Highways, Transportation and Development'. In this case they would recommend refusal of the application.

The Highways Agency have directed that Planning permission should not be granted as various technical issues are still outstanding.

Policy:-

National Policy

Circular 11/95 Use of Conditions in Planning Permissions sets out five 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 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.

Policy T5 Highways Design and Vehicle Parking Standards of the adopted Hinckley and Bosworth Local Plan refers to the application of appropriate standards for highway design for new development.

Core Strategy

Spatial Objective 6: Infrastructure Provision seeks to ensure that development contributes to the necessary infrastructure required by new development, through provision of new, or where appropriate, enhancement of existing infrastructure (for example through appropriate developer contributions).

Policy 1: Development in Hinckley requires transport improvements in line with Policy 5

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.

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 floor space 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 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 begun, the required works to Dodwells roundabout have not been commenced. The main considerations with regards to this application are the previous application history and the tests of conditions.

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 07/01150/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. Although their formal response has not yet been received, the Highways Agency has indicated that the modelling work that they have undertaken is at variance with the view of the applicant, and thus the current 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 has verbally commented 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. It is only this year that the applicant has challenged the need for the improvement.

(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.

Conclusion

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 2007 and are not currently required is disputed by the Highways Agency who have advised 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 vary the condition cannot be permitted and is recommended for refusal subject to no significant material observations being received by the end of the consultation period. This significant development requires these mitigation works which is to provide the right level of infrastructure, and for the planning of the area.

RECOMMENDATION:- That subject to no significant material observations being received by the end of the consultation period expiring on 24th December 2009, the Director of Community Planning Services be granted delegated powers to issue a refusal of planning permission, for the reasons outlined below.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Reasons:-

- 1 In the opinion of the Local Planning Authority the variation of condition 13 of permission 07/01150/FUL would lead to a detrimental impact to the safety and free flow of traffic on the A5 Trunk Road which would be contrary to Policies T5 and IMP1 of the adopted Hinckley and Bosworth Local Plan and Policies Spatial Objective 6 and Policy 1 of the Hinckley and Bosworth Council Core Strategy.

Notes to Applicant:-

- 1 List of plans used in the determination of this application:- Site Plan scale 1:12500; Drg No. C540/1; Design and Access Statement; Planning Statement; S-Paramics Traffic Modelling Report and an Updated Capacity Assessment.

Contact Officer:- Eleanor Shaw Ext 5691

Item: 12

Reference: 09/00798/FUL

Applicant: J S Bloor

Location: Land East Of Groby Village Cemetery Groby Road Ratby
Leicestershire

Proposal: ERECTION OF 133 NO. DWELLINGS WITH GARAGES AND
CARPARKING AND CONSTRUCTION OF ROADS AND SEWERS

Introduction:-

Planning permission is sought for the erection of 133 dwellings and associated roads and sewers on land to the east of Groby Cemetery Groby Road, Ratby. The application site is adjacent to the settlement of Groby but lies within the Parish of Ratby.

The application site is bounded by a terrace of three cottages to the north, a stream and former rail line used as a public footpath with residential development beyond to the east, by an open field and Sacheverell Way to the south and by a further public footpath (R53), the Cemetery, Ratby Road and a detached residential property in large grounds to the west.

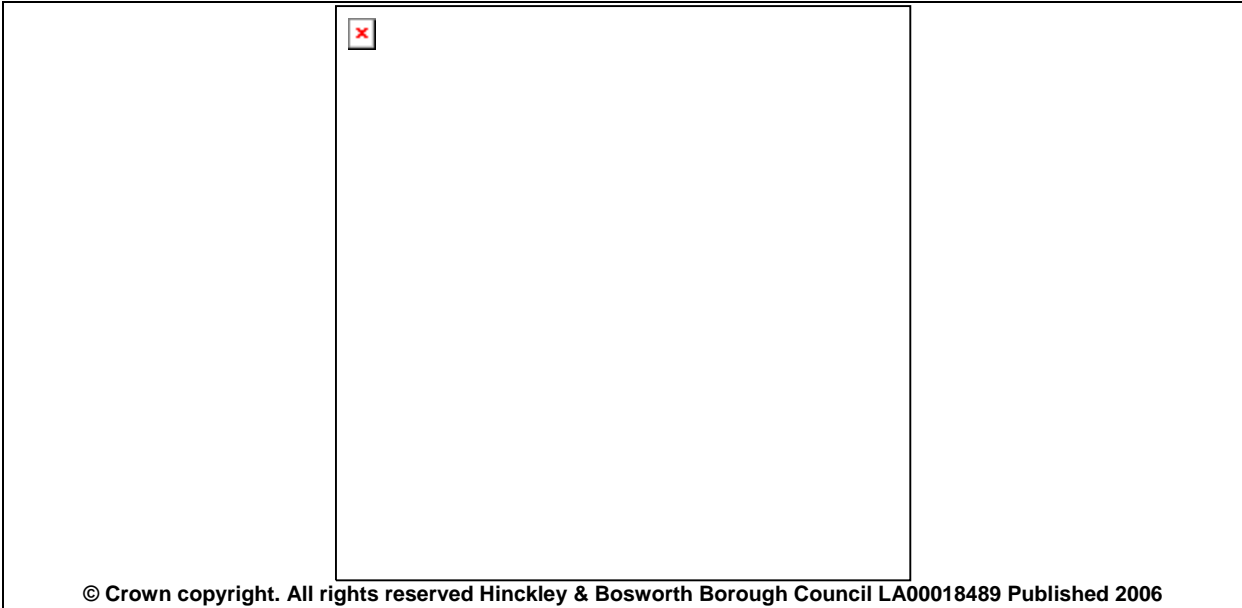
The application proposes a mix of 1, 2, 3 and 4 bedroomed properties including 8 apartments distributed as terraced, semi-detached, and detached properties. Of the 133 dwellings proposed 24 (18%) are indicated as affordable housing units. The application also includes the creation of a new access to Ratby Road, the retention of an existing pond, a Local Area of Play (LEAP), the creation of a balancing pond and an area of open space to the south of the site.

The application is supported by a Planning Statement, a Design and Access Statement, a Tree Assessment, Ecological Appraisal, a Badger Report, Great Crested Newt Report, Reptile Survey, a Transport Assessment, Travel Plan, Heads of Terms, a Flood Risk Assessment, and an Affordable Housing Statement.

The Design and Access Statement concludes “the overall development concept would make a positive contribution to the area and has been laid out so as to fully harmonise with the surrounding environment. The layout and scale respects and responds to the site constraints, opportunities and local context”.

History:-

09/00469/FUL	Erection of 140 dwellings with garages and car parking and construction of roads and sewers	Withdrawn	20.08.09
88/00350/4	Proposed Residential Appeal Development Outline	Withdrawn	21.11.88



Consultations:-

No objection subject to conditions have been received from:-

- Director of Community Services (Archaeology)
- Director of Community Services (Rights of Way)
- Head of Community Services (Pollution)
- Head of Community Services (Land Drainage)
- Head of Business Development and Street Scene Services
- Head of Corporate and Scrutiny Services (Green Spaces)
- Director of Community Services (Ecology)

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

- a) Director of Children and Young People’s Service (Education)– has stated that there is a surplus capacity at the local upper school and therefore not contribution is required towards that. The local primary school and high school, Lady Jane Grey and Brookvale High School, are full and forecast to remain so. Therefore a total contribution of £586,500 is required towards providing educational facilities at these schools.

- b) Head of Commercial and Support Services (Civic Amenity)– The site lies within the Civic amenity sites at Coalville and Whetstone, therefore the contribution will be split between these sites. A contribution of £2,293.00 is therefore requested.
- c) Director of Highways, Transportation and Waste Management (Highways) – request contributions totalling £99,516.08 to encourage sustainable travel to and from the site including travel packs for each dwelling and improvements to nearby bus stops.
 - The Primary Care Trust has requested £128,931 to address the capacity issues at the surgeries on Station Road, Ratby and Rookery Lane, Groby.
 - Director of Highways, Transportation and Waste Management (Highways) has stated that the applicant has failed to demonstrate an appropriate and safe access onto the Groby Road would be provided. They have also requested amendments to the scheme to address the sub-standard garage and parking lengths and have informed the developer that at present the site fails to comply with the HTD document and hence the highway would not be adopted by the Highway Authority.
 - The Leicestershire Constabulary Crime Reduction Officer states that whilst the layout provides good surveillance to parking areas, additional amendments have been suggested to reduce opportunities for crime further.

The Leicestershire Fire and Rescue Service- have requested a contribution of £11,323.62 which is required to offset the capital expenditure that the development would impose on the Fire Authority.

The Environment Agency has objected to the proposal on the grounds that an insufficient Flood Risk Assessment has been submitted.

Local Members draws the officers attention to the level of objection from local residents about the proposal and state the following particular reasons:-

Level of affordable housing

The 5 year land supply is deficient as a result of poor planning and why should local residents pay the price

Refers the case officer to Strategic objectives3, 3C and 3D and policy RES5

Proposal would increase the level of traffic on roads that are already grid locked.

Groby Parish Council- Objects on the following grounds:-

- adverse effect on the open and undeveloped character of the Green Wedge.
- it is outside the settlement boundary
- proposed entrance would be close to the entrance to Brookvale High school and Groby Community College.
- destroy a valuable ecological environment
- Groby does not have the infrastructure to deal with the influx of people however taxes would go to the Ratby, Bagworth and Thornton ward.

- local roads are in a state of constant grid lock and cannot cope with any more traffic.
- there is no evidence within the Groby and Field Head Parish Plan of the need for more open market housing.

Ratby Village Society- Objects to the proposal on the grounds that:-

- incorrectly names the site as Ratby Road, Groby where as it is actually Groby Road, Ratby.
- would result in continuous urban sprawl and loss of separate and unique identities of two villages.
- loss of green wedge
- neither the Ratby or Groby infrastructure can cope with influx of 400/500 people.
- application site is not used for grazing but as amenity space
- the development is contrary to objectives within the Rothley Meadows green wedge strategy.
- extra vehicle traffic would be opposite major school campus and safe routes to school
- development would create 1032 extra vehicle movements the majority of which could be through Ratby.
- Asks what provision of social housing would be allocated to Ratby residents?

Ratby Local History Group- Objects to the proposal on the following grounds:-

- Undermines the green wedge which is necessary to preserve the separate identities of both villages.
- Entrance is close to schools, increasing traffic on an already busy road junction.
- Over stretched infrastructure within the villages will not support new houses.
- Undermine the peace and tranquillity of Groby Village Cemetery.

Groby Village Society- Objects on the following grounds:-

- The area provides an important part in providing a green wedge between Groby and Ratby
- The access opposite a school and college campus is dangerous
- the current bus service would not tempt new residents to use public transport
- The wildlife and environment would be harmed if not by the site itself but by the noise and air quality pollution
- The local services would not be able to cope with such a large increase in population.

Site notices and Press notice were displayed and neighbours notified.

718 letters of objection have been received of which 502 are from different households, raising the following concerns:-

- a) insufficient services within Groby and Ratby to support the number of new dwellings proposed (including schools, dentists, doctors etc.)
- b) unsafe access on to the public highway, close to a school
- c) the road network is already congested in both Ratby and Groby to which the development would add
- d) development would destroy a valuable ecological asset
- e) the proposal is outside the settlement boundaries of both Groby and Ratby
- f) the proposal would cause upset to relatives of those buried within the cemetery
- g) proposal does not comply with the Council's Strategic Objectives
- h) the site is protected as Green Wedge, and residents were told that it would not be built upon
- i) unacceptable visual impact on the cemetery

- j) loss of views
- k) insufficient area provided for the badgers
- l) Ratby already has its full site allocation under the LDF
- m) why provide more houses for an overpopulated country, this needs to be addressed by Central Government rather than telling the local authorities to provide more dwellings
- n) noise from the motorway and main roads would detrimentally affect the living conditions.

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

Policy:-

Planning Policy Statement 1

Delivering Sustainable Development sets out the Government's objectives for the planning system. The document states that high quality and inclusive design should be the aim of all those involved in the development process.

Planning Policy Statement 3

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

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

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

The East Midlands Regional Plan

Policy 1- Outlines the regional core objectives which includes ensuring that housing stock meets the need and extends choice of all communities in the region.

Policy 2- Promotes better design through reflecting the local, natural, and historic character, making the best use of land and locating development to provide access to the development by foot, cycle and public transport.

Policy 13a- Regional Housing provision states how many units Local Authorities should plan for over the period of the Regional Plan. Hinckley and Bosworth are allocated 9000 dwellings.

Policy 44 - Sub- area transport objectives, aim to reduce the use of the car in and around Leicester and promote local public transport provision and facilities to encourage walking or cycling.

Local Development Framework

Core Strategy

The Local Plan is in the process of being replaced by the Local Development Framework (LDF) and the Core Strategy, the first of the LDF documents, has almost completed the formal adoption process and has been found sound by the Planning inspectorate. Therefore this emerging Policy document should now be given significant weight in the planning process.

Spatial objective 13: Transportation and the need to travel seeks to reduce the need to travel by car.

Policy 7: Key rural centres seeks to support key centres so they can provide key services to the rural hinterland and supports housing development within the settlement boundary.

Policy 8: Key rural centre relating to Leicester seeks to allocate land for at least 110 houses to meet the needs of people working and living in Groby and 75 houses in Ratby.

Policy 9: Rothley Brook Meadows Green Wedge encourages the use of this area for recreational uses within easy reach of urban residents.

Policy 15: Affordable Housing: seeks provision of 40% affordable housing on housing schemes of more than 4 units in rural areas.

Policy 16: Housing mix and Design, requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings.

Policy 19: Green Space and Play provision sets standards in relation to green space and play provision in the borough to ensure all residents have access to sufficient high quality and accessible green space and play provision.

The Local Plan (adopted February 2001)

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

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

Policy REC2 requires all new residential development to provide outdoor play space for formal recreation.

Policy REC3 New Residential Development - Outdoor Play Space for Children requires the appropriate level of open space to be provided within development sites or, alternatively, a financial contribution to be negotiated towards the provision of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

Policy RES3 concerns provision of affordable housing on sites not specifically allocated for residential purposes. This sets out that an element of affordable housing will be negotiated

with developers related to the need for affordable housing in the area in which the site is situated. Affordable dwellings may be provided on site, off site or by financial contribution.

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

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

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

Policy T5: Highway Design and Vehicle Parking Standards refers to the application of appropriate standards for highway design and parking provision for new development.

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

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

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

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

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

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

The Site Allocations Preferred Options Document has recently been out for public consultation. This highlights the application site as a preferred option for future residential development. However, this document does not carry significant weight as it is only part way through the adoption process with a draft version for submission expected to be issued later this year with an examination next year.

Appraisal:-

The main considerations with regards to this application are the principle of development, green wedge, five year housing supply, affordable housing, Impact on neighbours, parking and the impact on highway, infrastructure improvements and ecology.

Principle of Development

The application site lies outside however abuts the settlement boundary of Groby as defined within the adopted Hinckley and Bosworth Local Plan. The site is also within the Rothley Brook Meadows Green Wedge which separates Groby from Ratby.

In accordance with Policy RES5, residential development is not supported outside the settlement boundary. The application is therefore contrary to this policy unless there are material planning considerations that indicate otherwise.

Green Wedge

The site falls within the green wedge as designated by policies NE3 of the Local Plan and Policy 9 of the Core Strategy. As part of the Councils evidence base for the Site Allocations and Generic Development Control policies DPD, the methodology for the review will be informed by the objectives set out in paragraph 4.2.1 of the RSS. Below is a desktop assessment of the application site with regard to the objectives set out in the RSS

- Prevents the merging of settlements- applying this objective the green wedge forms a separation between Groby, Ratby and Glenfield. The application site is bounded by two roads that act as a physical barrier to prevent the sprawl of this development. In addition Ratby and Groby are separated by the M1.
- Guides development form- as stated above the nature of the roads bordering the site guides the development form.
- Provides a green lung into the urban area- the dis-used railway line to the north of the site provides the function to access the surrounding green spaces and therefore a green lung is still accessible to residents.
- Acts as a recreational resource- the site does not act as a major recreational resource,, the current pond on site is set to remain.

The analysis above indicates that the site does not meet the objectives of the RSS that evaluate how land contributes to the purpose of a green wedge. It is therefore considered that the proposal would therefore not detrimentally affect the purpose of the green wedge to such a significant extent to warrant refusal of this application.

Five Year Land Supply

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

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

key criteria for considering applications including high quality design, mix, sustainability and efficient use of land.

The RSS sets the Borough a requirement of 450 dwellings per annum to be met from 2006 onwards. Taking into account existing permissions and developable sites within settlement boundaries (predominantly Urban Capacity sites) that have been provided this equates to a supply of 4 years and 5 months, 277 dwellings short of the required five year supply.

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

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

Affordable Housing

The application proposes to provide 24 affordable units distributed throughout the site as a mixture of 1 bed roomed flats, 2 and 3 bed houses. This equates to 18% of the total number of dwellings proposed. Policy 15 within the Core Strategy requires a minimum of 40% affordable units on developments of 4 units or more in rural areas. The applicant is therefore proposing under half of the provision required by the emerging policy.

Information regarding the viability of the scheme has been submitted separate from the application on a confidential basis, which infers that the applicants are willing to pay the contributions requested by County, the Primary Care Trust and towards play and open space provision, at the cost of a reduction in affordable housing provision. To determine how justified this approach is the figures have been assessed by using the Three Dragons Model and further information has been requested to justify some of the additional costs claimed. The Three Dragons are a consultancy commissioned by three Leicestershire Authorities to undertake a study to examine the potential impact on development viability of affordable housing targets and level of threshold.

The applicant has argued that the 40% affordable housing target has not been subject to any viability appraisal and figures have been proposed that reflect recent experiences within the Borough. The need for 40% affordable housing within the area has been recently tested through the Core Strategy adoption process which included an Affordable Housing Viability Assessment published in July 2009. In addition a housing needs assessment of Groby was undertaken in 2006 that identified 31 households were in need of affordable housing at that time. Currently there are 145 applicants on the housing registrar for Groby demonstrating a continued need over a period of time for affordable housing in this area.

The Core Strategy contains a requirement for 75 additional dwellings to be provided in Ratby and 110 dwellings for Groby over the life of the plan. This single application would fulfil approximately three quarters of this requirement, reducing the potential for future sites to come forward to contribute to meeting the affordable housing need in the future. Given that significant weight should be given to the provision of affordable units as part of this application, the Local Authority has a duty to bring forward sites for affordable housing by negotiating a percentage to be provided within developments, to meet local need. The

applicants have entered into negotiations to increase the provision of affordable dwellings on this site and an update on these negotiations will be reported to committee as a late item.

Impact on Neighbours

The application site is separated from the properties on Greys Drive by the disused railway now used as a footpath. This contains mature trees and vegetation along its length which screens the existing properties from the development. It is therefore considered that the development does not detrimentally affect the residential amenities to warrant refusal of the scheme.

The property known as 'Ashdale' encroaches into the north eastern side of the site and is surrounded by mature trees and vegetation along the shared boundaries of the site. To the south and eastern boundaries open space provides an area of separation between this property and the proposed dwellings. To the north gardens of plots 1-4 abut the boundary of 'Ashdale'. The gardens have a length on average of 12m and an actual distance of 24m between the proposed dwellings and the side elevation of the property. It is considered that, given these distances along with the boundary treatments that the proposal would not significantly harm the amenities of nearby residents.

Parking and Impact on Highway

The proposal seeks to alter the highway layout straightening Groby Road to provide adequate visibility in both directions. The Highway Authority, have submitted comments stating the applicant has failed to demonstrate that an appropriate and safe access would be provided.

The Director of Highways, Transportation and Waste Management has requested that the site be linked to the footpath that follows the disused railway line. This is not an adopted footpath and the applicants have confirmed that the footpath is not within their ownership and therefore the applicant has no right to connect to the footpath therefore they cannot fulfil this request from the County Council.

Further information has also been requested demonstrating that the appropriate car parking provision would be provided within the site. The current version of the Highways HtD document states that for spaces to be considered as off road parking spaces they must have minimum dimensions of 2.4m by 5.5m or in the case of garages dimensions of 3m by 6m. The applicant fails to meet this requirement and an amended plan has been requested to address this deficiency.

The Highways Authority state that the layout does not comply with the requirements of 'Highways, transportation and development' and will not be adoptable. Again a revised layout has been requested to address this.

Negotiations between the applicant and the Highways Authority are ongoing and it is considered that the deficiencies within the scheme can be resolved. An update of the progress made will be reported as a late item.

Layout and Design

The proposal consists of a main estate road with larger detached dwellings to the south west of the entrance and a terrace of smaller properties to the northeast. Larger units are proposed on the corners of junctions to the site, providing focal points. A LEAP is proposed to the rear of 'Ashdale' centrally located within the site to provide a recreational facility for young children. Dwellings are grouped around cul-de-sacs and parking courts to provide

surveillance from first floor windows. To the south of the site an area of open space is proposed to provide foraging ground and protection around the existing badger sett.

The applicants have given consideration to the layout, with thought given to the relationship between buildings the position of the LEAP and extra detail incorporated on dwellings to create dual aspects. Thought has also been given to the boundary treatments between the plots, with walls proposed to boundaries that form part of the public realm. Policy BE1 requires development to provide a strong common link between the proposed buildings, spaces and boundary treatments should be carefully considered in creating an inclusive environment. The proposed estate has variety in its design to create an interesting streetscene and to have its own identity.

The design could however be further improved and amendments have been requested including the introduction of chimneys and additional windows to be inserted on blank elevations visible from public spaces.

Supplementary Planning Guidance on new residential accommodation seeks sufficient amenity space to be provided for dwellings and guidance is provided with regard to distances between properties to limit overlooking and preserve the amenities of future residents. The majority of the proposed plots comply with the standards with a few plots being identified as slightly substandard. In these cases the orientation, of the plot and relationship to other dwellings would not be so detrimental as to warrant a refusal of permission. It is considered the orientation and position of windows provide good surveillance over public areas without detrimentally affecting the amenities of future residents. It is considered that the layout and design, subject to a few minor amendments, complies with Policy BE1 and is therefore acceptable.

Infrastructure Improvement

Contributions have been requested by various organisations towards providing facilities for the future residents of the development to be secured by means of an agreement under Section 106 of the Town and Country Planning Act. The contributions required and reasons for the request:

Leicestershire Fire and Rescue have requested £11,323.62 to offset the capital expenditure that the development would impose on the Fire Authority.

Director of Children and Young Peoples Service states that their request is based only on the 125 proposed dwellings with 2 or more bedrooms. There is a surplus capacity within the local upper school and hence no contributions are requested for this facility. However the local Primary (Lady Jane Grey) and High School (Brookvale High School) are full and projected to remain so therefore a contribution of £586,500 is requested to improve facilities at these schools.

Director of Highways, Transportation and Waste Management (Waste) have stated that the application site is halfway between the civic amenity sites of Coalville and Whetstone and any monies would be split 50:50 between these sites. Therefore a contribution of £2,293.00 is requested.

Director of Highways, Transportation and Waste Management have requested various contributions towards encouraging sustainable development including providing travel packs for every dwelling (£34.00 per pack), 6 month bus passes (2 per dwelling totally £551.76 per dwelling), improvements including shelters, information and Startrack real time information boards at 2 of the nearest bus stops. In total the contributions requested total £99,516.08.

The applicant has indicated that they are willing to enter into a Section 106 agreement to secure the majority of the contributions however they have refused to contribute towards the Fire Service. To justify a contribution under Section 106 the payment must directly relate to the proposal and there should be a functional and geographical link between the contribution sought and the development. In the case of the Fire Service it is considered that this link or need has not been adequately demonstrated at this stage, and therefore the refusal of the applicants to pay the contribution would not be a reason for refusing the application.

Ecology

A reptile survey, badger and great crested newts reports have been submitted to the Local Planning Authority in support of the application. A badger sett is located at the southern perimeter of the site and a conceptual landscape scheme submitted for the area around it to ensure that adequate foraging ground is left. It is recommended that this land should not be accessible to the general public and therefore cannot be counted towards the onsite recreational space. Subject to minor amendments to the landscape plan, due to no newts or reptiles being found no objection from County Ecology has been received.

Other Issues

The site was put forward as a preferred option in the Site Allocations and Generic Development Control Policies DPD and was assessed through the Strategic Housing Land Availability Assessment (SHLAA) (October 2008) the SHLAA site reference is AS498. There are limited sites within Groby due to the nature of the settlement with major roads bordering it on three sides. To provide sufficient housing within Groby it is necessary to allocate a greenfield site. This location is the more suitable greenfield site adjacent to the settlement due to a number of reasons including:-

- good connections to local amenities;
- good access points;
- relates well to the existing settlement;
- limited topographical constraints; and
- identified constraints can be mitigated.

The site is located within 400 metres of a bus stop providing good public transport links and existing open space. The site is also located within 800 metres of a primary school, local centre and a post office.

This proposal is in conformity with Policy 8 of the Core Strategy.

Additional sites that were put forward within the Groby area were not adjacent to the settlement boundary were found unsuitable as they are beyond the built up limits of a settlement and within open countryside. This approach conforms to Policy 12 of the East Midlands Regional Plan. All options put forward were considered through the Strategic Housing Land Availability Assessment (SHLAA) (October 2008) against the same assessment criteria, this was prepared in conjunction with the Highway Authority and the Archaeology and Ecology Team at Leicestershire County Council. It also considered the relevant evidence base documents produced for the Local Development Framework. For the reasons given above it was concluded that the site off Sacheverell Way was the best site for allocation within Groby to meet the requirement set out for Groby in the Core Strategy.

The following alternative options were considered; Land between Sacheverell Way and the A46, Land to the rear of Fern Crescent, Land to the north of M1, Land to the west of Fern Crescent and land to the East of Anstey Lane. ,

Whilst a flood risk assessment has been submitted with the application, comments have been received from the Environment Agency that it does not comply with the requirements set out in Annex E of the Planning Policy Statement 25, and therefore does not provide suitable basis for assessment. The Environment Agency therefore objects to the proposal unless the applicant can address the concerns raised.

Conclusion

The design and appearance of the proposal is considered acceptable subject to the submission of minor changes to the scheme that can easily be accommodated. The site is located outside the settlement boundary of Groby and would usually therefore be refused in principle. However the Council at present can not provide a continuous supply of residential land for five years which carries significant weight to override Policies RES5, NE5 of the local plan, and Policy 9 of the Core Strategy. The applicant is currently in negotiations with the Director of Highways Transportation and Waste Management (Highways) the Environment Agency and officers regarding the outstanding highway issues, inadequate flood risk assessment and affordable housing. Subject to the resolution of these matters it is recommended that the application be approved.

Recommendation:-

That subject to: The execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section III of the Local Government Act 1972 towards the provision of affordable housing, the provision and maintenance of public play and open space facilities, education, library facilities and civic amenity facilities; the resolution of issues relating to the Flood Risk Assessment and highway concerns; and the submission of amended plans to address minor concerns in relation to the design and layout of the proposal, the Director of Community and Planning Services be granted powers to issue full planning permission subject to the conditions below. Failure to do so by 22nd January 2010 may result in the application being refused.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan and core strategy, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development by virtue of the design and layout of the development, the mix of dwellings proposed and the distance from existing dwellings, the mitigation measures to protect the badgers and provision of play space within the site, the proposal would assist to meet the Council 5 year housing supply shortage whilst protecting the amenities of neighbouring residents. The proposal would be in accordance with the development plan.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, REC2, REC3, RES3, RES5, NE3, NE5, T5, T9, NE2, NE12, IMP1

Local Development Framework- Core Strategy (2009):- Policies 7, 8, 9, 15, 16. and 19

- 1 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 2 No development shall take place within the application area until the applicant, or their agents or successors in title, have secured the implementation of a programme

of archaeological work, commencing with an initial stage of exploratory trial trenching. This work shall be conducted in accordance with a written scheme of investigation which has been submitted to and approved in writing by the planning authority.

- 3 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.
- 4 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 5 No development approved by this permission shall be commenced until such time as a scheme for the monitoring of landfill gas has been submitted to and agreed in writing with the Local Planning Authority. The development and monitoring of landfill gas shall be carried out in accordance with the agreed details.
- 6 The development shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 7 No building shall be erected or trees planted within 3 metres of the sewer that crosses the site.
- 8 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
 - (i) proposed finished levels or contours
 - (ii) other vehicle and pedestrian access and circulation areas.
 - (iii) hard surfacing materials
 - (iv) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.)
 - (v) proposed and existing functional services above and below ground (e.g. drainage, pipelines, manholes, supports, etc.)
 - (vii) planting plans
 - (viii) written specifications
 - (ix) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
 - (x) implementation programme.
- 9 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.

- 10 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.

Reasons:-

- 1 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 2 To secure satisfactory archaeological investigation and recording in accordance with Policy BE16 of the Hinckley and Bosworth Local Plan.
- 3 To protect future occupiers of the properties from pollution in accordance with Policy NE2 of the Hinckley and Bosworth Local Plan.
- 4 To protect future occupiers of the properties from pollution in accordance with Policy NE2 of the Hinckley and Bosworth Local Plan.
- 5 To protect future occupiers of the properties from pollution in accordance with Policy NE2 of the Hinckley and Bosworth Local Plan.
- 6 To ensure development is provided with satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 7 To maintain essential access for repair, maintenance and renewal and to protect the structural integrity of the public sewage system, in accordance with policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 8 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 9 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 10 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

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

- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The applicant may wish to apply to Severn Trent Water to divert the sewer in accordance with S185 of the Water Industry Act 1991 or for a Building Over or Close to a Public Sewer Agreement.

Contact Officer:- Sarah Humphries Ext 5680

PLANNING COMMITTEE – 22 DECEMBER 2009

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

RE: HIGHAM ON THE HILL AND THE ASHBY CANAL CONSERVATION AREA STATEMENTS & MANAGEMENT PLANS

1. PURPOSE OF REPORT

- 1.1 To seek Members' approval to adopt the Conservation Area Statements and Management Plans for the conservation areas in the village of Higham on the Hill and the Ashby Canal.

2. RECOMMENDATION

That Members adopt the Conservation Area Statements and Management Plans for Higham on the Hill and the Ashby Canal as Planning Guidance.

3. BACKGROUND TO THE REPORT

- 3.1 The conservation area in Higham was declared in April 1995 and the Ashby Canal in December 1990. Conservation Area leaflets were produced at that time which set out the extent of the Conservation Areas, and gave brief information about the impact of designation on property owners in the area. The information provided in the leaflets is similar to that provided for all Conservation Areas in the Borough.
- 3.2 As reported to the Planning Committee on 2nd February 2007, it is intended to review all Conservation Areas in the Borough and issue a Conservation Area Statement and Management Plan for each area. The statement will assess the significance of the designated area and analyse how that significance is vulnerable to change. Its aim is to preserve and enhance the character of the area and to provide a basis for making sustainable decisions about its future through the development of management proposals. The documents will provide a description of the historical development of the settlement and the canal, set out the important features of the conservation areas which should be protected and indicate the planning guidance which apply to new development in the area.
- 3.3 The benefits of a comprehensive appraisal of a conservation area are that it will provide a sound basis for development control decisions, for protecting local heritage, for developing initiatives to improve the area and as an educational and informative document for the local community.
- 3.4 The Management Plans for the Conservation Areas will take the form of a mid to long term strategy for preserving and enhancing the conservation area. It will address the issues and make recommendations for action arising from the statement and identify any further detailed work needed for their implementation. They will also set out specific enhancement schemes for the

public realm and aim to secure the repair of important heritage features and buildings in the area. The plans will also include photographic surveys, which will be used as a mechanism for monitoring future change in the designated areas.

The Conservation Statement and Management Plans for both Higham and the Ashby Canal have recently been completed by officers of the Council. A public meeting was held at the Methodist chapel in Higham and several venues along the canal which were very well attended by local residents, boat users, and fishermen.

4.0 **FINANCIAL IMPLICATIONS (DB)**

There are none arising directly from this report. Any costs involved in the preparation and adoption of the Statement and Plan will be met from existing resources.

5.0 **LEGAL IMPLICATIONS (AB)**

- 5.1 Under section 71 Planning (Listed Buildings and Conservation Areas) Act 1990 there is a duty on a local planning authority from time to time to formulate and publish proposals for the preservation and enhancement of their conservation areas, to submit these for consideration to a public meeting in the area to which they relate, and to have regard to any views concerning the proposals expressed by persons attending the meeting.

6.0 **CORPORATE PLAN IMPLICATIONS**

The preparation of the Conservation Area Statements and Management Plans both meet Strategic Objective 7 of the Corporate Plan.

7.0 **CONSULTATION**

- 7.1 At Higham, an exhibition was held at the Methodist Chapel on 15th October. The display included the study findings and future management recommendations illustrated by photographs, drawings and maps.

The exhibition generated a lot of public interest and approximately 45 people attended. The displays also gave the opportunity to provide additional information about the purpose of Conservation Area designation, the impact of the additional controls over land and property, and guidance regarding the type of development that is acceptable.

- 7.3 Public exhibitions were held between 16th November and 4th December at venues along the canal including St Peter's Church at Shackerstone, Sutton Cheney wharf, the library at Market Bosworth, the Hinckley marina, the Lime Kilns public house on the A5 and at the Council Offices. Some of the exhibition locations were unmanned but where officers were in attendance, the exhibitions were very well attended and the conservation proposals received enthusiastic support.
- 7.4 British Waterways, the Ashby Canal Association, the Market Bosworth and the Stoke Golding Heritage Groups and Leicestershire County Council's

Ashby Canal Project Officer who is based at Measham Community Office were also consulted.

7.5 The written responses of the public and the canal organisations together with officer responses are included in appendix A and B. The applicable comments were incorporated into the revised document. Any further responses received will be reported to Committee as a late item.

8.0. **RISK IMPLICATIONS**

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

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

Management of Significant (Net Red) Risks		
Risk Description	Mitigating Actions	Owner
Not achieving performance targets	Maintaining programme of Appraisals	Richard Palmer

8.3 The key risks of not endorsing and implementing the Conservation Area Statement and Management Plan are not meeting performance targets, the Council not being recognised for the good achievements of its Conservation Service and not protecting our local heritage.

9.0 **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

9.1 The new Conservation Area Statements will further protect the Borough's Heritage. (chapter 5 of the Community Plan).

The village of Higham and the Ashby Canal are both within the rural area of the Borough. The Higham documents are only relevant to the Parish of Higham and will help the parish council and development control officers when commenting on planning applications. The Ashby Canal Appraisal and Management Plan will be of similar use and will also form the basis for future discussions with British Waterways and the Ashby Canal Association on improvements to this important local resource.

10. **CORPORATE IMPLICATIONS**

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

- Community Safety Implications - None
- Environmental implications – Included in the report.
- ICT Implications – None
- Asset Management Implications - None
- Human Resources Implications – None
- Planning Implications – Contained within the report

Background Papers: Conservation Area Appraisal, Appraisal Plan, Long Term Strategy Management Plan, Public Comments on Higham and Ashby Canal Conservation Areas available in the members room and can be viewed on the Council's web site.

Contact Officer: Barry Whirrity, ext 5619

HIGHAM ON THE HILL CONSERVATION AREA EXHIBITION

SUMMARY OF CONSULTATION RESPONSES

The following issues were raised:

- 1 Residents were concerned at the amount of traffic that uses Main Street as a through road. The new traffic calming has not been successful and has destroyed the character of the village. *This is a matter for the County Highway Authority to consider.*
- 2 The new road layout often forces passing traffic to mount the pavement near the school, which has damaged the pavement and services. *This is a matter for the County Highway Authority to consider.*
- 3 The new community building next to the school has recently been taken over by Leicestershire County Council although its construction was partially funded by residents. Residents stated that the County Council has introduced very high charges for its use which they considered to be unfair. *This is a matter for the County Education Authority to consider.*
- 4 The new street lighting was disliked by residents, who would prefer to have Heritage lamp posts installed. *The County Highway Authority will be consulted on this issue. However, on roads that carry a considerable volume of traffic the County Council prefers to have lamp columns at least 6 metres in height. It is proposed, however, to replace the street light at the junction of Main Street and Barr Lane with a heritage street light.*
- 5 The suggestion that the Borough Council should offer grants to repair or replace missing chimneys received enthusiastic support. *The Borough Council already provides small grants in conservation areas as an inducement to provide/retain stone and brick walls and replace concrete roof tiles with natural materials. It is suggested that grants should also be provided to replace chimneys.*
- 6 In the long term residents are sympathetic to replacing plastic windows currently installed in the estate cottages with timber windows. *This is to be welcomed as the use of plastic windows in traditional properties tend to downgrade conservation areas.*
- 7 Some residents felt that conservation areas should be identified on the ground. *The Borough Council is in the process of displaying conservation plaques in all its conservation areas. So far, Ratby, Twycross and Witherley have plaques displayed. This year, Newbold Verdon, Shenton, Sutton Cheney and the Druid Quarter in Hinckley are to have plaques displayed.*

- 8 Some residents are prepared to volunteer to assist the Authority in conserving the Fisher tombs and repairing the lychgate at the Parish *Church*, proposals put forward in the Conservation Area Management Plan. *Residents consider these to be important local historic features that should be preserved and there offer is to be welcomed.*
- 9 Generally, enthusiastic support was given by residents to the proposals in the Management Plan and Conservation Area Statement.

ASHBY CANAL CONSERVATION AREA

EXHIBITIONS

SUMMARY OF CONSULTATION RESPONSES

The following issues were raised:-

- 1 The issue of public access was raised on whether the whole length of the canal footpath within Hinckley and Bosworth is available for the public to use and whether this would be extended to Moira when the proposals to lengthen the canal are undertaken. *Permissive footpath rights exist on the canal towpath, indeed, some sections are included on the County Council's definitive public rights of way maps.*
- 2 Concern was expressed at the poor state of repair of the canal tow path, particularly between Bridges 20 and 22 where the towpath's hardcore surface has been removed and is now a muddy mess. *This issue will be discussed with British Waterways.*
- 3 The timber seats between Bridges 21 and 22 have been removed due to damage from cutting machinery. The seats are used regularly by ramblers and are greatly missed. *Their replacement and repairs to seats and noticeboards generally will be raised with British Waterways.*
- 4 All original canal structures should be listed, including bridges, and the wharf buildings at Stoke Golding. *Individuals can put forward proposals to English Heritage, the organisation responsible for listing.*
- 5 There is no mention of the original uses of the house and outbuildings just above Bridge 23. This collection of buildings housed a 'mineral works' in the late 1800's producing fizzy drinks. Later it became a bone mill owned by Starkey and Asbury and later by Bannisters. *Information on the buildings will be included in the appraisal.*
- 6 It has now been confirmed that Crown Hill at Stoke Golding was the site of Henry's crowning. Bridge 26 could provide a readymade viewpoint for tourists and should be kept in good repair for this purpose. *An information board could be provided at the bridge drawing attention to this historical feature.*
- 7 Any further development along the canal should maintain a reasonable distance from the canal towpath and hedgerow boundaries. *Policies were incorporated in the Borough's Local Plan to this effect. At a recent planning appeal where the appeal was dismissed, the inspector stated that a 30 metre distance should be maintained.*
- 8 Views and vistas to and from the canal should be retained. *The appraisal draws attention to this issue.*

- 9 No more social housing or commercial warehouses should be built on fields adjacent to the canal. *Future development sites are being investigated as part of the Local Development Framework.*
- 10 More dog bins are required along the canal and at accesses onto it and they need to be emptied *more* often. *This matter will be forwarded to the appropriate authority for consideration.*
- 11 When hedge cutting and trimming the banks is carried out, all the cuttings should be removed off site and not allowed to float on the water. *This matter will be raised with British Waterways.*
- 12 Illuminations around the Trinity Motors Marina would help enhance the area at night. *This is a matter for the owners of the Marina to consider.*
- 13 Support for the preservation and repairs to the existing bridges utilising matching traditional materials wherever possible. *This matter will be raised with British Waterways.*
- 14 Considerable support is given to the canal's importance as a wildlife corridor rich in aquatic and terrestrial flora and fauna that provides access to animals onto adjoining land. Particular attention is drawn to the problems of sheet piling which does not allow plants to grow and hinders the movement of animals between land and water. *This matter will be raised with British Waterways.*
- 15 Closure of the path at Dadlington on the opposite side to the tow path has limited access to certain groups of people. Access points onto the canal should be improved. *This matter will be raised with British Waterways.*
- 16 One resident opposed the removal of sludge dredging from the canal as this is a material that has been eroded by boat wake. *This is a matter for British Waterways to consider. Dredging is important to keep the waterway open to boats.*
- 17 The rubbish next to buildings on Section 17 needs to be cleared. *This will be investigated.*
- 18 Footpath signage to and from the canal and to adjacent villages could be improved. *A matter for Leicestershire County Council to consider.*
- 19 More access points *for* canoeists should be provided onto the canal. *This is a matter for British Waterways to consider.*
- 20 Too much boat traffic on the canal, which is causing bank erosion and loss of wildlife habitats. *This is a matter for British Waterways to consider.*
- 21 Where possible, drainage ditches adjacent to the canal should be made to run into the waterway. *This is a matter for British Waterways to consider.*
- 22 As a society we should not try to revert back to the days when the canals were first built. We should encourage new development and embrace its advantages in modern living. *The designation of conservation areas is for*

their protection and enhancement. The Borough Council has a duty to carryout these measures.

- 23 There should be more control over moorings by British Waterways, particularly with regard to the provision of rubbish facilities. Issues of waste drainage into the canal as a site of special scientific interest should be addressed. *This is a matter for British Waterways to consider.*
- 24 Inadequate litter facilities along the canal for boats, fishermen and visitors. *This matter will be investigated.*
- 25 Moored boats should be monitored for residential occupation. Particular attention is drawn to the marina at Stoke Golding where it is believed that over the years there has been a increase in boats being used as permanent residences. The question is asked whether this increase has been officially sanctioned by British Waterways and is there a need for more affordable housing. *This is a matter that will be raised with British Waterways.*
- 26 The County Highway Authority should limit the weight and size of vehicles crossing canal bridges. *This is a matter for Leicestershire County Council to consider.*
- 27 Considerable support for not using sheet piling, which is unsympathetic to the canals rural character and wildlife. Measures should be taken to reduce its impact / replacement where it has been used. *This important issue is raised in the canal appraisal and will be discussed with British Waterways.*
- 28 The remaining original canal mile-markers and railway boundary marker posts need protection. A suggestion was made that the stop gates should be re-constructed. *The need for the protection of markers is highlighted in the appraisal. The potential for rebuilding stop locks will be raised with British Waterways but it is considered to be very unlikely.*
- 29 Concern has been expressed over the size of the proposed marina at Market Bosworth and its likely impact on the canal's flora and fauna. *Any environmental impact on the canal will be considered when the proposal is approved.*
- 30 British Waterways recognised that each waterway has its own character and adopted a colour scheme for each canal. Owners of waterside buildings on the Ashby Canal were encouraged to use these British Standard Colours. Walls 08:B:17 or 10:B:17, Sills/Windows 10:B:25 or 08:B:21 Doors 12:B:29 or 12:B:25. *The reintroduction of these colours along the canal will be raised with British Waterways.*
- 31 The Ashby Canal should be developed as a green infrastructure corridor. Concern has been expressed at the impact of increased use of the canal by walkers and boaters, the dredging of the canal and the use of sheet piling on the SSSI. *This will be discussed with British Waterways, Natural England and the Council's Planning Officers.*
- 32 The impact of parking on grass verges adjacent to the canal is a cause of concern. Parking should only be permitted where the areas can be

supervised. *This will be discussed with British Waterways and the Highways Department of Leicestershire County Council.*

- 33 The existing wooden box culverts should be replaced with plastic pipes. *This will be discussed with British Waterways.*
- 34 There was considerable support for the Authority's management plan and statement. Residents felt the canal was a wonderful local amenity which should be preserved for the public's enjoyment.

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

1. **PURPOSE OF REPORT**

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

2. **RECOMMENDATION**

That the report be noted.

3. **BACKGROUND TO THE REPORT**

3.1 Appeals Lodged

3.1.1 Appeal by Mr and Mrs Davies against the refusal of a certificate of lawful proposed development for extensions and alterations (09/00802/CLU) at 49 Wykin Road, Hinckley, (Written Representations).

3.1.2 Appeal by Mr P Godden against a breach of condition notice in connection with dog agility centre and kennels on land at Upper Grange Farm, Ratby Lane, Markfield. (Public Inquiry)

3.2 Appeals Determined

3.2.1 Appeal by Mr T G Orton against the refusal of planning permission for a two storey front extension consisting of two bedrooms, studies and dining room at 6 Butt Lane, Hinckley.

3.2.2 The Inspector identified the main issues as being the effect of the development on the character and appearance of the existing dwelling and its surroundings.

3.2.3 The Inspector considered that properties on Butt Lane are varied in terms of their age, size, design and style. The application property at present has a simple frontage and the two storey extension across the front elevation has been designed to reflect the less restrained architectural style of the rear. The Inspector took account of Saved Policy BE1 which seeks to ensure residential extensions are in keeping with the design and character of existing property. Whilst the Inspector recognised that the proposed extension would completely change the character of the front elevation it was concluded that this change would not necessarily result in harm. The Inspector was satisfied that the proposal would respect the scale and character of both the dwelling and streetscene.

3.2.4 It was noted that other properties within the streetscene had forward facing gables and it was not considered that the size of the proposed extension would be seen as a intrusive feature in the streetscene, and in conclusion the Inspector considered that the extension would harm neither the appearance of

the dwelling or the surrounding area and hence there would be no conflict with Policy BE1. This application is the subject of a separate appeal for costs the outcome of which will be reported at a later meeting.

3.2.6 INSPECTORS DECISION
Appeal allowed (Officer decision)

4. **FINANCIAL IMPLICATIONS (AB)**

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

5. **LEGAL IMPLICATIONS (MR)**

5.1.1 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. **KNOWING YOUR COMMUNITY – EQUALITY AND 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

Background papers: Appeal Decisions
Contact Officer: Sarah Humphries ext 5680

PLANNING COMMITTEE - 22 DECEMBER 2009

REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES

RE: APPEALS PROGRESS

1. PURPOSE OF REPORT

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

2. RECOMMENDATION

- 2.1 The report be noted.

3. FINANCIAL IMPLICATIONS

- 3.1 None

Background Papers:

Contact Officer: Tracy Darke, extension 5692

PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 11.12.09

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
	RW	09/00660/FUL	PI	Crest Nicholson (Midlands) Ltd	Former Greyhound Stadium Nutts Lane Hinckley	<i>Awaiting Start Date</i>	
09/00023/CLD	DK	09/00802/CLU	WR	Mr & Mrs Davies	49 Wykin Road Hinckley	<i>Start Date</i> <i>Statement</i> <i>Comments</i>	27.11.09 08.01.10 29.01.10
09/00017/ENF	JC/ES	07/00031/BOC	PI	Mr P Godden	Land at Upper Grange Farm Ratby Lane Markfield	<i>Start Date</i> <i>Statement of Case</i> <i>Public Inquiry (4 days)</i>	06.11.09 18.12.09 09-12.03.10
09/00022/PP	ES	09/00246/TEMP	HR	Mr C Klenk	Stanmaur Farm Earl Shilton	<i>Start Date</i> <i>Statement of Case</i> <i>Hearing Date</i>	05.11.09 17.12.09 02.02.10
09/00020/ENF	JH	09/00242/UNAUTH	WR	Miss Joanna Squires	Land Adjacent to Lodge Farm Wood Road Nailstone	<i>Start Date</i> <i>Awaiting Decision</i>	05.10.09
09/00019/COND	PM	09/00343/CONDIT	PI	Crest Nicholson (Midlands) Ltd	Land Adjacent to 391 Coventry Road Hinckley	<i>Start Date</i> <i>Proof of Evidence</i> <i>Public Inquiry (2 days)</i>	22.09.09 15.12.09 12/13.01.10
09/00018/COND	PM	09/00340/CONDIT	PI	Crest Nicholson (Midlands) Ltd	Land Adjacent to 391 Coventry Road Hinckley	<i>Start Date</i> <i>Proof of Evidence</i> <i>Public Inquiry (2 days)</i>	22.09.09 15.12.09 12/13.01.10
09/00013/ENF	JH	09/00159/UNBLD	PI	Mr Robert Hodgetts	Land to the north of Bagworth Road Nailstone	<i>Start Date</i> <i>Proof of Evidence</i> <i>Inquiry Date (2 days)</i>	05.06.09 15.12.09 26/27.01.10

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

09/00021/FTPP	DK	09/00384/FUL	WR	Mr T Orton	6 Butt Lane Hinckley	ALLOWED	16.11.09
09/00016/TREE	NC	09/00370/TPO	WR	Mrs T Satchwell	1 Grange Court Desford	SPLIT	09.12.09

Rolling April/December

Planning

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision		
					Allow	Spt	Dis	Allow	Spt	Dis
17	6	7	3	1	5	3	7	1		

Enforcement

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn