

Date: 8 February 2010

**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)

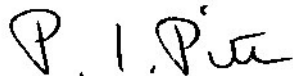
Dear Councillor

There will be a meeting of the **PLANNING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **TUESDAY, 16 FEBRUARY 2010** 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**  
**16 FEBRUARY**  
**A G E N D A**

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 19 January attached marked 'P53'.

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 'P54' (pages 1 – 63).

8. IMPROVING ENGAGEMENT BY STATUTORY AND NON-STATUTORY CONSULTEES: CONSULTATION

Report of the Director of Community & Planning Services attached marked 'P55' (pages 64 - 77).

9. IMPROVING THE USE AND DISCHARGE OF PLANNING CONDITIONS: CONSULTATION

Report of the Director of Community & Planning Services attached marked 'P56' (pages 78 - 91).

- RESOLVED 10. APPEALS LODGED AND DETERMINED  
Report of the Director of Community and Planning Services attached marked 'P57' (pages 92 – 95).
- RESOLVED 11. APPEALS PROGRESS  
Report of the Director of Community and Planning Services attached marked 'P58' (pages 96 – 98).
- RESOLVED 12. LETTER FROM DR MALCOLM BELL RE APPLICATION 09/00897/FUL LINTON FARM, THORNTON  
The Director of Community and Planning Services to report on a letter received.
- RESOLVED 13. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

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

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL**

**PLANNING COMMITTEE**

**19 JANUARY 2010 AT 6.30 PM**

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

Mrs M Aldridge, Mr JG Bannister, Mr JC Bown, Mr MB Cartwright, 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.

Officers in attendance: Ms T Miller, Miss R Owen, Mr TM Prowse, Mr M Rice, Mr S Wood and Mr R Wright.

352 **APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Mr CW Boothby and the substitution of Mr Cartwright for Mr Boothby was authorised in accordance with Council Procedure Rule 4.3:

353 **MINUTES (P48)**

It was moved by Mr Cartwright and seconded by Mr O'Shea that minute 346(a), page 164, should be amended so the paragraph following the recorded vote read:

"The amendment was therefore CARRIED. It was moved by Mr Boothby, seconded by Mr Cartwright and"

Upon being put to the vote this amendment was agreed. It was therefore

**RESOLVED** – the minutes of the meeting held on 22 December 2009 be confirmed subject to the abovementioned amendment and signed by the Chairman.

354 **DECLARATIONS OF INTEREST**

Mr Sutton declared a personal interest in item 6 on the agenda – decisions delegated at the previous meeting, should any discussion on application 09/00873/FUL arise.

355 **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:

09/00739/OUT: it was noted that the 21 days reconsultation period would end this week and the application would be refused if the additional information had not been received.

09/00778/EXT: It was reported that permission had been issued.

09/00811/DEEM: It was reported that permission had been issued.

09/00873/FUL: Officers requested that a target date be set for the Section 106 Agreement of the end of February 2010 and if not resolved at that point the application would be refused. It was moved by Mr Cartwright, seconded by Mr O'Shea and

RESOLVED – failure to complete the agreement by 28 February 2010 will result in the application being refused.

09/00876/CONDIT & 09/00877/CONDIT: Officers recommended that an additional reason for refusal be added to incorporate the comments of the Highways Authority and refusal be issued on 20.01.10. It was moved by Mr Crooks, seconded by Mr Gould and

RESOLVED – a reason for refusal be added to incorporate the comments of the Highways Authority.

356 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P49)

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) 09/00765/FUL – Substitution of 12 house types, Breconshire Hosiery, Rossendale Road, Earl Shilton – Redrow Homes

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

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

- (b) 09/00897/FUL – Erection of agricultural workers dwelling, Linton Farm, Merrylees Road, Thornton – Mr & Mrs A and N Pickup

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

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

Mr O'Shea left the meeting at 6.50pm.

357 PERMITTED DEVELOPMENT RIGHTS FOR SMALL SCALE RENEWABLE AND LOW CARBON ENERGY TECHNOLOGIES, AND ELECTRIC VEHICLE CHARGING INFRASTRUCTURE (P50)

Members were provided with a report which gave a suggested consultation response on the proposed changes to the permitted development rights for small scale renewable and low carbon energy technologies, and electric vehicle charging infrastructure.

Mr O'Shea returned at 6.52pm.

Members expressed concern with regard to part of the document which suggested that a wind turbine could be sited within 5 metres of the boundary and could also be very high, which would impact on neighbours.

It was agreed that Members would be kept advised of progress on these matters and the outcome of the consultation exercise. It was moved by Mr Nichols, seconded by Mrs Aldridge and

RESOLVED –

- (i) the report be noted and consultation response be endorsed;
- (ii) Members be kept informed of the outcome of the consultation and resulting changes.

358 APPEALS LODGED AND DETERMINED (P51)

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

RESOLVED – the report be noted.

359 APPEALS – PROGRESS (P52)

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

RESOLVED – the report be noted.

360 MATTERS FROM WHICH THE PUBLIC MAY BE EXCLUDED

On the motion of Mr Cartwright, seconded by Mr O'Shea, it was

RESOLVED - in accordance with Section 100A(4) of the Local Government Act 1972 the public be excluded from the undermentioned item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 2 and 10 of Part I of Schedule 12A of that Act.

361 URGENT ITEM: REASONS FOR REFUSAL ON ITEM 09/00660/FUL (minute 280(j) refers)

The Director of Community and Planning Services reported that this item was considered urgent due to the need for action. He gave a verbal update and recommendation that no evidence should be offered at any inquiry into the third reason for refusal in respect of the decision taken on 24 November 2009 (minute 280(j) refers).

Members expressed concern with regard to whether the County Council enforced requirements when developers applied for adoption of roads. It was agreed that this question be asked of the County Council and that a report be brought to this Committee with regard to that matter.

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

RESOLVED –

- (i) no evidence be offered at any inquiry into the third reason for refusal;
- (ii) a report be brought to the Planning Committee with regard to the adoption of roads.

(The meeting closed at 7.40pm)

**PLANNING COMMITTEE AGENDA - 16 February 2010 - NUMERIC INDEX**

<b>REF. NO.</b>	<b>APPLICANT</b>	<b>SITE</b>	<b>ITEM</b>	<b>PAGE</b>
09/00797/FUL	Marble Homes Leicester Ltd	Rear Of 112 High Street Barwell	01	01
09/00818/FUL	Arragon Properties	Land Adjacent 1 Main Road Ratcliffe Culey	02	12
09/00867/FUL	Earl Shilton Baptist Church	Land Adjacent To 74 Almeys Lane Earl Shilton	03	18
09/00934/FUL	Mr And Mrs Bloor	Home Farm Hall Lane Osbaston	04	26
09/00914/CON	Mr And Mrs Bloor	Home Farm Hall Lane Osbaston Nuneaton	05	36
09/00931/FUL	Mr Frederick Watson	10 West End Barton In The Beans	06	40
09/00950/FUL	Mallory Park (Motorsport) Ltd	Motorsport Ltd Mallory Park Church Road Kirkby Mallory	07	45
10/00013/C	Mallory Park (Motorsport) Ltd	Mallory Park Church Road Kirkby Mallory	08	54
09/00995/COU	Mr Paul Finney	Land Heath Road Bagworth	09	58



**REPORT P54**

**PLANNING COMMITTEE**

**16 February 2010**

**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:** 09/00797/FUL  
**Applicant:** Marble Homes Leicester Ltd  
**Location:** Rear Of 112 High Street Barwell  
**Proposal:** ERECTION OF 11 NEW DWELLINGS.

### **Introduction:-**

This full application is a revised submission following the withdrawal of a previous scheme for the part redevelopment of this site. The application proposes the erection of 11 dwellings on land to the rear of 104 and 112 High Street, Barwell. A new (additional) point of vehicular access into the site is proposed. This scheme follows a previous grant of planning permission for the conversion of an existing industrial building on the site and the comprehensive redevelopment of the site with a mix of residential units. The current application proposes a revised scheme for the northern part of the application site.

The site is bounded to the east by residential; to the south by residential and a fish and chip shop; to the west by a mix of uses, including retail and leisure and a warehouse in connection with a 24 hour commercial business (Crowfoots Distribution Centre), to the north. The site is located within the Barwell Conservation Area other than for an area adjacent to the northern boundary. A public right of way runs along the sites northern boundary.

The current application site has been cleared and is currently an unsightly brownfield site. The remainder of the earlier application site (adjacent to the south) comprises the retained former industrial building. This building is constructed of a variety of materials including brick and render with a slate roof.

The application proposes the erection of 2 two bed terrace houses, 9 three bed terrace houses and 2 two bed semi detached houses, laid out in the form of two terraces and a pair of semi detached houses. Both terraces face each other across and access and parking area. A mix of house types are proposed including attractive houses to the terrace ends and a pair of attractive semi detached houses at a key focal point within the site.

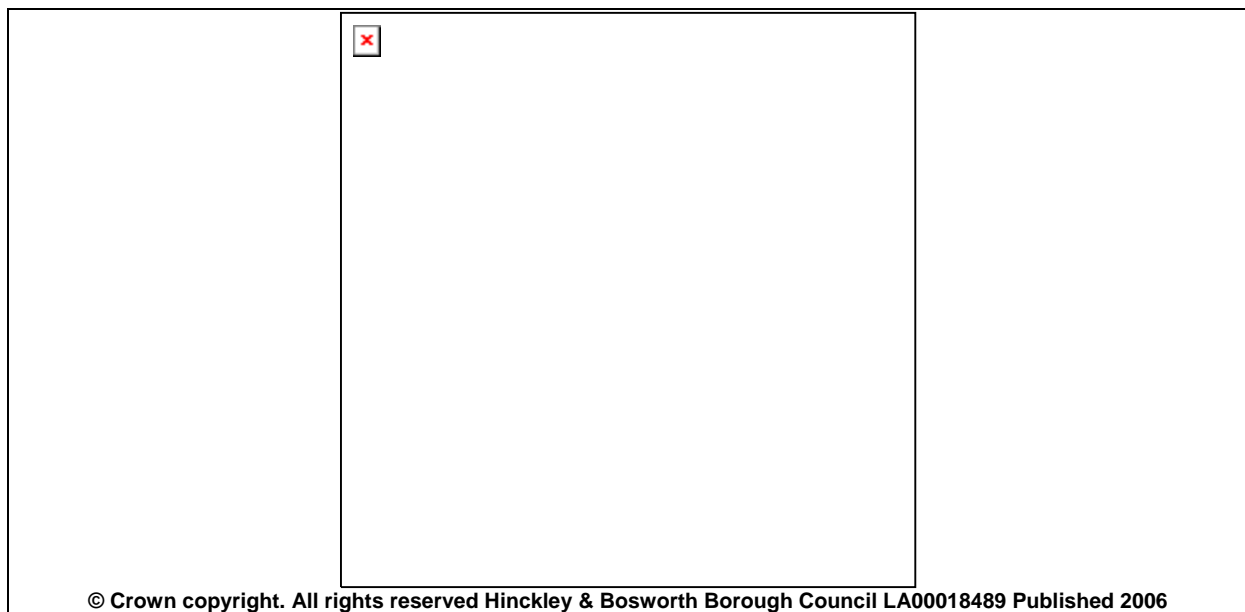
The application is accompanied by a Design and Access Statement; Noise Assessment, ground contamination survey and a draft Section 106 Agreement. The Design Statement indicates that the scheme comprises a development of much need small housing, all with gardens and parking, and is of a traditional form and layout. The application has been subject to pre-application discussion.

Following discussions with the agent some minor amendments to the submitted scheme are being prepared. This will be reported and discussed as a late item.

### **History:-**

78/1256	Change of use of Abbatoir to light industrial precision engineering and light industries	Approved	26.09.78
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89/0453	Development of land as starter home development	Dismissed at Appeal	11.01.90
04/00974/OUT	Residential Development	Dismissed at Appeal	20.01.06
05/00982/OUT	Residential Development	Withdrawn	25.01.06
06/01196/FUL	Conversion of industrial buildings to 9 apartments and demolition of other buildings and redevelopment with 11 houses and 3 apartments including associates parking and access.	Approved	20.02.07
08/01020/FUL	Erection of 12 dwellings	Withdrawn	21.01.09



**Consultations:-**

No objection has been received from:-

The Director of Community Services (subject to note to applicant)  
The Environment Agency.

No objection subject to conditions have been received from:-

Director of Community Services (Rights of way)  
Director of Community Service (Ecology) request a Watching Brief for protected species  
Director of Highways, Transportation and Waste Management (Highways)  
Severn Trent Water  
Head of Community Services (Land Drainage)  
Head of Community Services (Pollution)  
Head of Business Development and Street Scene Services (Waste Services).

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

- Director of Children and Young People's Service (Education): nil as surplus capacity in local schools
- Head of Commercial and Support Services (Libraries): £620
- Director of Highways, Transportation and Waste Management (Civic Amenity): £499
- Director of Highways, Transportation and Waste Management (Highways): £6443.36
- Leicestershire Police: £6666 or nil if the scheme meets Secure By Design standard
- Leicestershire Fire and Rescue Service: £925.54
- The Leicestershire Constabulary Crime Reduction Officer states adequate lighting and lockable gates should be provided to enhance community safety. Railings adjacent the car park should be reinforced with planting to prevent damage to cars and property and windows facing the footpath should be laminated.

One objection has been received from Barwell Parish Council on the following grounds:-

- a dated noise survey
- lack of access for refuse vehicles
- lack of clarification on the disposal of foul sewerage
- narrow access that will give rise to vehicle parking problems
- site should be retained for employment
- lack of local consultation
- adequate street lighting required.

### **Policy:-**

#### The Adopted Core Strategy

Policy 3 Development in Barwell: seeks to support the regeneration by, inter alia delivering 45 new dwellings within the existing settlement boundary and ensuring all development respects the character, and builds on its sense of place.

Policy 16 Housing Density, Mix and Design: seeks to ensure that a mix of housing is provided in all new schemes. In Barwell a minimum net density of 40% is required.

Policy 19 Green Space and Play Provision: seeks to ensure that all residents have access to sufficient high quality green space.

#### The Adopted Hinckley and Bosworth Local Plan (Saved Policies)

Policy EMP1(b) identifies this employment site as one where other employment activities, or alternative uses will be considered. However, the Employment Land and Premises Study (2004) conducted by consultants on behalf of the Borough Council has reappraised the importance of this existing employment area and recommends that it should be retained for employment purposes.

Policy BE1 of the adopted Hinckley and Bosworth Local Plan states that planning permission for development proposals will be granted where amongst other criteria, it is not adversely affected by activities in the vicinity of the site which are likely to cause nuisance to the occupiers of the proposed development.

Policy NE2 of the adopted Hinckley and Bosworth Local Plan states that planning permission will not be granted for development which would be likely to suffer material harm from either existing or potential sources of air or soil pollution.

Policy BE7 of the adopted Hinckley and Bosworth Local Plan seeks to preserve or enhance the special character that makes a Conservation Area. Development should be sympathetic to the characteristic form in the area and compatible with adjacent buildings and spaces.

Policy BE8 of the adopted Hinckley and Bosworth Local Plan protects buildings within Conservation Areas from demolition and applications where it is considered the loss of the building would be detrimental to the character of the Conservation Area should be refused.

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

Policy IMP1 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 '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 and including facilities for cycle parking.

#### Other Guidance

The Adopted Supplementary Planning Guidance on New Residential Development is applicable and provides a series of layout and design based criteria that all new developments should satisfy.

The Adopted Supplementary Planning Document on Play and Open Space requires a financial contribution for the provision and maintenance of play and open space, equating to £1250.80 per residential unit, where facilities cannot be provided within 400m of the site

#### **Appraisal:-**

The key issues for consideration here are the principle of development, impact on the Conservation Area, layout and design, impact on neighbours, impact on the right of way, highways, noise and developer contributions.

#### Principle

The earlier planning application received in 2004 (ref: 04/00974/OUT) was refused planning permission and subsequently appealed. Whilst the appeal was dismissed, the Inspector determined that the residential use of the site would not be contrary to Local Plan policy EMP1(b). With regards the Employment Land and Premises Study the Inspector concluded that if this is a site that ought to be retained then it should have been considered as a category (a) site and not as a category (b). The Inspector held that the large industrial building should be retained and therefore considered for conversion.

The 2006 planning application (06/01196/FUL) established the principle for a 100% residential development on the site and proposes a scheme of dwellings, apartments and retains the former industrial building as part of this scheme, as required by the Inspectors appeal decision.

The site is within the defined settlement boundary for Barwell and therefore there is a presumption in favour of development subject to all other planning matters being adequately addressed.

### Impact on Conservation Area

The scheme proposes an appropriate layout and mix of house types that compliment the character and appearance of the Conservation Area. The dwellings respect the predominant 2 storey character of residential development surrounding the site and have a subordinate relationship to the retained former industrial building adjacent. The materials proposed are generally appropriate to the surrounding developments and the character of the Conservation Area. Following discussions with the agent a series of minor design amendments are proposed to ensure that the development further reflects the character of the Barwell Conservation Area. The detail of the amendments will be discussed as a late item.

### Layout and Design

The proposed layout is largely dictated by the shape of the site, the footprint of the existing building adjacent and the application of the separation standards set down in the SPG on New Residential Development. The scheme provides 55 dwellings per hectare and therefore appropriately addresses the minimum density requirements set down in the Core Strategy.

The site layout creates a development that has good enclosure to the street, however most vehicle parking is to the front of the dwellings, maintaining the wider recognisable character of the Conservation Area. Whilst maintaining the character of the surrounding area, this arrangement is not ideal, however through the inclusion of a detached car port building (requested as minor amendments) and the completion of a high quality landscaping scheme in the public areas of the site, the car parking areas and the area adjacent to the sites northern boundary to the public right of way, will successfully assimilate all aspects of the development.

The additional vehicular access point is served from the sites existing approved vehicular access to High Street, however it provides an additional route into the site further north by taking a route to the west and north of the retained industrial building. This access route follows the existing access that formally served the premises when in industrial use.

All of the proposed dwellings have outdoor amenity spaces and whilst these spaces are smaller than would normally be required, they provide a sensible amount of space consistent with the earlier approved scheme and the expectations for dwellings of this type of size and location.

The Police Architectural Liaison Officer has suggested a series of minor design changes that will ensure the development meets the secure by design standard.

### Impact on Neighbours

The layout of the site is in general accordance with the separation standards set down in the SPG on New Residential Development and therefore is not likely to result in any impact on surrounding residential properties. The adjacent properties will now back onto a residential development rather than an unsightly waste land and the anti-social behaviours that are associated with underutilised sites, resulting in a gain to their residential amenity.

### Impact on Public Right Way

The proposed scheme (within the noise assessment) incorporates acoustic measures in the form of a 3-metre high screen wall or fence along the northern boundary of the public footpath. The southern boundary of the footpath abuts the proposed development; the

submitted details indicate that 1.8 metre high railings are proposed to enclose the development to allow views into and out of the site, thus creating some natural surveillance increasing the security of the footpath. The use of railings will provide the necessary surveillance to the footpath but will also provide a degree of security to the occupiers of the proposed dwellings.

### Highways

The proposed scheme is served by an existing access from High Street, however following the completion of this development and the first phase, two vehicular circulation routes within the site will be available. The scheme provides 160% vehicle parking provision and whilst this is less than the typically applied standard, it is considered acceptable as Barwell is well served by public transport and is in accordance with Central Government guidance which encourages planning authorities to apply a flexible approach to parking provision.

The Director of Highways, Transportation and Waste Management (Highways) raises no objection to the proposal subject to the imposition of conditions to control necessary highways design matters.

### Noise

The site is located adjacent Crowfoot Carriers, a 24 hour commercial operation. Historically there have been complaints regarding the noise generated from the site and acoustic measures put in place to address this. The application submitted includes a noise assessment, which indicates that with a 3 metre high acoustic fence noise levels can be met with the windows closed. However there is no mechanism for ensuring windows are kept shut and due to building regulations the windows cannot be non-openable. It is therefore considered that the imposition of a condition ensuring acoustically attenuated active ventilators are fitted to all habitable rooms facing Crowfoot Carriers should resolve issues sufficiently. The ventilators will provide sufficient ventilation without the need to open windows; it will then be the occupier's choice whether they wish to open windows with the potential for noise disturbance. Unfortunately, the planning system can only make sufficient provision to ensure residents will not be affected by potential noise sources, however if residents choose to still open their windows it is out of the Local Authority's control. It is suggested that a note is included on any permission advising the developer to ensure future residents are aware that noise levels can only be met with the windows closed hence the provision of the ventilators.

### Developer Contributions

In accordance with the requirements of Policy REC3 of the Adopted Hinckley and Bosworth Local Plan and the Adopted Supplementary Planning Document on Play and Open Space an amount of on site play and open space provision or an off site contribution is necessary. In line with the earlier approved schemes at this site there is no on site provision and therefore a developer contribution of £1250.80 per dwelling is applicable for use at the Boston Way Recreational Ground. A total figure of £13,758.80 is requested.

In accordance with the requirements of Policy IMP1 developer contributions as follows are necessary to this development:-

### Leicestershire County Council

- Libraries: £620
- Civic Amenity: £499

- Leicestershire Fire and Rescue: £936.24
- Leicestershire Police: £6,666, however it has been agreed that this figure will be waived providing the development achieves the Secure by Design standard, to which the developer agrees to. Should the developer not be able to achieve the Secure by Design Standard there will be a clause within the S.106 Agreement requiring the payment of the developer contribution.
- Leicestershire NHS Primary Care Trust: £7581
- Highways (travel packs and bus passes): £6443.36.

The applicant has agreed to pay all developer contributions other than those for Leicestershire Police (in accordance with the exemption above) and Highways travel packs and bus passes as these were not applicable to the other half of the development. The developer has proposed a reduced figure equating to the provision of one bus pass and travel pack per dwelling. This negotiated figure has been put to Leicestershire County Council and the outcome of this negotiation will be reported as a late item.

### Other Issues

The issue of a site benefiting from adequate drainage is very much a technical matter where there are a number of options available to a developer to achieve an adequate drainage solution. In addition to any planning control the matter is dealt with in detail under the Building Regulations. In this case Severn Trent Water have not raised objection to the scheme but have asked for details to be submitted prior to any development commencing. A condition requiring appropriate drainage details to be submitted is proposed.

The provision of storage of waste and recycling containers and the access for collection vehicles is a material consideration. In this case the development proposes a scheme of 11 dwellings all with adequate rear gardens for the storage of such items. The site benefits from two points of access and therefore service and collection vehicles should be able to access the site.

Due to the fact that the site has been cleared and there is no obvious habitat value within the site the submission of a Protected Species Survey is not necessary, however The Director of Community Service (Ecology) advises that a watching brief should be maintained by the applicant during all site works and should any protected species be found all work should cease and further advice be taken from Natural England.

### Conclusion

The application submitted is considered to propose a high quality scheme with good design qualities. The nature of the scheme is noise sensitive and therefore careful consideration has been given to the proximity of the accommodation to the noise source. The provision of acoustically attenuated active ventilators will enable future residents to occupy the units with acceptable living standards without the need to open windows therefore their amenity should not be adversely affected by the noise generated at the adjacent commercial use. The scheme provides a good degree of surveillance to the public footpath and on balance it is considered that the application should 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 and maintenance of public play and open space facilities, library facilities, civic amenity facilities, highways travel packs, fire and rescue provision and policing requirements; and the submission of amended plans to address minor concerns in respect of the layout and design of individual plots by 13 March 2010, 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 13 March 2010 may result in the application being refused.

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

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

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

Hinckley & Bosworth Borough Council Local Plan (2001) :- IMP1, EMP1, BE1, BE7, BE8, NE2 and REC3 and Core Strategy (2009):- 3, 16 and 19.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: JA:02:50 and JA:02:49:A received 8 October 2009
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 Before development commences, full details of all new window and door style, type of glazing, 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 No development shall commence until a detailed design of the access, including details of width, visibility splays, radii and build-out shall be submitted to the Local Planning Authority for approval in consultation with the Highway Authority. The approved details shall then be implemented before the first occupation of any dwelling hereby permitted and shall be maintained thereafter.
- 6 No development shall commence until details of the proposed surfacing to the access roadways, shared parking areas, driveways and parking spaces shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall then be implemented before the first occupation of any dwelling hereby permitted and shall be maintained thereafter.
- 7 Before the first occupation of any dwelling hereby approved, all parking spaces shall be made available for use for vehicle parking and shall remain available for vehicle parking thereafter.
- 8 Before any development commences a scheme protecting the proposed dwellings from noise from adjacent commercial operations shall be submitted to and approved in writing by the Local Planning Authority. The scheme should include the provision of acoustically attenuated active ventilators for all habitable rooms where necessary

that will prevent external noise levels exceeding an internal noise level of 30dB max between the hours of 23:00 and 07:00. The scheme shall also include the provision of windows serving all habitable rooms where necessary that will prevent external noise levels exceeding 45dB LAmax between the hours of 23:00 and 07:00. All works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied and be maintained thereafter.

- 9 Notwithstanding the details submitted, full details of the proposed acoustic fence to the sites northern boundary, including height, style and position will be submitted to and approved in writing by the Local Planning Authority. The fence shall thereafter be erected in accordance with the approved details prior to occupation of any of the dwellings hereby approved.
- 10 Development shall not begin until drainage details including works for the disposal of both surface water and foul sewage, incorporating sustainable drainage principles and an assessment of the hydro geological context of the development have been submitted to and approved in writing by the Local Planning Authority, and the scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- 11 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 15 metres behind the highway boundary and shall be hung so as to open inwards only.
- 12 No development shall commence until details of the proposed railings to the sites northern boundary adjacent to the public footpath have been submitted to and agreed in writing by the Local Planning Authority. The approved railings shall then be erected before the first occupation of any dwelling hereby approved and shall be maintained thereafter.
- 13 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, including details of soil importation for gardens and landscape areas
  - (ii) means of enclosure and boundary treatments
  - (iii) planting plans
  - (iv) written specifications
  - (v) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
  - (vi) implementation programme.
- 14 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

**Reasons:-**

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

- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with policy BE7 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure that the development has a satisfactory external appearance to accord with policy BE7 of the adopted Hinckley & Bosworth Local Plan.
- 5 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 6 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 7 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 8 To ensure the residents of the proposed dwellings are not adversely affected by noise from the adjacent commercial operation whilst still retaining an acceptable living standard to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 9 In the interests of visual amenity and in order to ensure the residents of the proposed dwellings hereby permitted are not adversely affected by noise from the adjacent commercial operation to accord with Policy BE1 and NE2 of the adopted Hinckley and Bosworth Local Plan.
- 10 To ensure that the development is provided with a satisfactory means of drainage to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 11 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 12 To ensure that the public footpath benefits from an appropriate degree of surveillance following the completion of this development, in accordance with the requirements of Policy BE1 of the Adopted Hinckley and Bosworth Local Plan.
- 13 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 14 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date.

Application forms to discharge conditions and further information can be found on the planning portal web site [www.planningportal.gov.uk](http://www.planningportal.gov.uk).

4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
5. Bats, nesting birds, great crested newts and certain other species 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. Condition 8 required the provision of acoustically attenuated active ventilators, these should be approved for use under the Noise Insulation Regulations 1975 or alternative ventilation systems of equal acoustic and cooling performance.
7. It should be noted that the development as proposed only complies with noise standards with the windows closed hence the requirement for the acoustically attenuated active ventilators required by Condition 8. It is therefore suggested that future residents are advised of this to eliminate potential noise complaints.
8. The applicant should be aware that the Local Planning Authority would prefer the use of wooden windows within the new areas of development.
9. The proposal is situated in excess of 45 metres from the Highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 1980 and Building Regulations Approved Document B, Fire Safety 2000.
10. A public footpath / bridleway crosses the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council.
11. In response to the submitted Ground Contamination report, the Council's Environmental Health Officer advises that 400mm of imported top soil shall be laid on the front gardens of all units and 700mm on the rear gardens of all units. The source of the soil and the validation of its quality shall be included within the submitted landscaping scheme.

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

**Item:** 02

**Reference:** 09/00818/FUL

**Applicant:** Arragon Properties

**Location:** Land Adjacent 1 Main Road Ratcliffe Culey

**Proposal:           ERECTION OF 1NO. DWELLING**

**Introduction:-**

This is a full application for the erection of a two storey detached dwelling with three bedrooms and attached double garage, on land located within the countryside at Main Road, Ratcliffe Culey.

Ratcliffe Culey is a small settlement, with Main Road being the main thoroughfare.

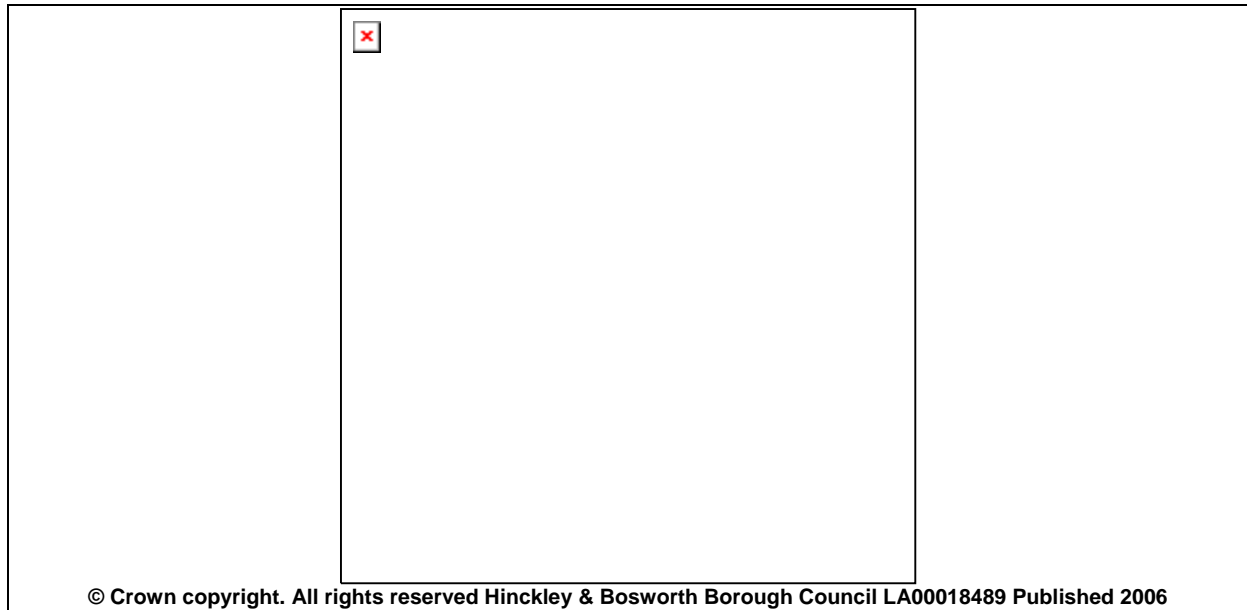
The application site has recently become a mown grass area which forms part of the land associated with 1 Main Road but sits beyond the properties residential curtilage. 1 Main Road has planning permission for conversion into two separate dwellings (08/00188/FUL) and conversion of an outbuilding to a separate dwelling (07/00599/FUL).

The site is 0.1625 hectares and is relatively level but lower than 1 Main Road and the existing outbuilding, it has mature hedges to the roadside and field boundaries. The nearest neighbour to the site is The Cottage, which is located beyond the western side boundary. On the opposite side of Main Road is agricultural land.

A Design and Access Statement has been submitted with the application which states that the proposed dwelling will infill between other existing development and access to the proposed dwelling will utilise an existing access which has been constructed in connection with the conversion of the outbuilding on an adjacent part of the site. The proposed dwelling is traditional in style incorporating dentil courses, timbers windows and doors and reconstituted stone cills and heads. The existing hedges will remain.

**History:-**

08/00188/FUL	Conversion of one dwelling into two separate dwellings (Revised scheme)	Approved	28.04.08
07/01248/FUL	Conversion of one dwelling into two separate dwellings	Withdrawn	18.12.07
07/00599/FUL	Conversion of garage to dwelling and alterations to access	Approved	18.07.07



### **Consultations:-**

The Head of Community Services (Pollution) raises no objections.

The Head of Community Services (Land Drainage) recommends notes to applicant on soakaway and permeable surfacing.

Nineteen neighbour objections received from eighteen addresses on the grounds of:-

- a) outside limits to development
- b) the land is a paddock/agricultural land not garden
- c) cannot be used as garden/ change of use of land
- d) if approved, should be for low cost housing
- e) highways dangers, near bend and width of road
- f) increase in traffic
- g) outside 30mph speed limit
- h) site too narrow
- i) purely proposed for business reasons
- j) currently 6 dwellings within the village either for sale or empty
- k) no demand for further dwellings
- l) design out of keeping with local area
- m) spoil character of existing village
- n) set precedent for further similar applications
- o) land has history of flooding concern over paving/surfacing.

David Tredinnick MP has objected to this application on the same grounds above and has questioned the level of consultation which has 'potentially serious consequences for the whole of this small community'.

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

### **Policy:-**

Central Government Guidance

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

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

Planning Policy Statement 7 Sustainable Development in Rural Areas (PPS7) sets out the Government's planning policies for rural areas. Paragraph 1 advises that new building development in the open countryside outside existing settlements should be strictly controlled in order to protect the countryside for its intrinsic beauty. Paragraph 10 makes it clear that isolated new dwellings in the countryside require special justification for planning permission to be granted, with further guidance provided in Annex A.

### Regional Policy

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

### Local Plan Policy

Policy RES5 allows residential developments on unallocated land, providing it is within the settlement boundary and complies with other policies within the Local Plan, especially with regard to the design, siting and appearance.

Policy BE1 considers the design and siting of development to ensure that the proposed development safeguards or enhances the existing environment and compliments the existing character, avoids the loss of open spaces, incorporates landscaping and would not adversely affect the occupiers of neighbouring properties.

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.

Policy REC3 requires the appropriate level of informal public 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. The Play and Open Space Supplementary Planning Document (adopted September 2008) provides further guidance to developers in respect of the different types of open space and the level of financial contributions required.

Policy T5 requires that new development shall be designed in accordance with the current addition of the Leicestershire County Highways 'Highways, Transportation and Development' Document to ensure developments would not compromise highway safety.

Policy NE5 states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is important to the local economy and cannot be provided within or adjacent to an existing settlement and only where it does not have an adverse effect on the appearance or character of the landscape, is in keeping with the scale and character of the existing buildings and general surroundings, will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping. Policy NE12 states that proposals for development should make provision for further landscaping where appropriate. Policy NE14 requires satisfactory arrangements to be made for the disposal of foul sewage, trade effluent and surface water.

#### Local Development Framework - Adopted Core Strategy

Policy 13 of the adopted Core Strategy defines Ratcliffe Culey as a Rural Hamlet not considered as a sustainable location for development. Because of the limited services within such settlements only very limited development is proposed, confined to infill housing development with a mix of housing types and tenures within the settlement boundary and rural exceptions sites that meets local need and complies with Policy 17.

#### Supplementary Planning Guidance/Documents

The Borough Councils Supplementary Planning Guidance on New Residential Development provides further guidance for developers on density, design, layout, space between buildings and landscaping/boundary treatments along with highways and parking.

The Play and Open Space Supplementary Planning Document (adopted September 2008) provides further guidance to developers in respect of the different types of open space and the level of financial contributions required. It requires contributions towards informal open space that is within 400 metres of the application site.

#### **Appraisal:-**

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

#### Principle

The proposed development is situated on land outside of the settlement boundary for Ratcliffe Culey and therefore constitutes development in the countryside. PPS1 states planning authorities should promote sustainable patterns of rural development and PPS3 states housing developments should be located in suitable locations which offer a good range of community facilities. Policy NE5 of the Local Plan only supports development in the countryside provided that the development is important to the local economy, is for a change of use, reuse or extension of an existing building or is for sport or recreation purposes.



Planning Policy Statement 7 advises development outside existing settlements should be strictly controlled in order to protect the countryside and new dwellings require special justification. This justification relates to a new dwelling in the countryside which is required to enable an agricultural worker and certain other full time workers to live at or close to their place of work. The submitted details make no reference to an agricultural requirement for the proposed dwelling and as such no justification has been provided to meet the requirements of PPS7.

The scheme proposes a new dwelling in the countryside with no special justification provided to support the need for the dwelling on agricultural grounds or to suggest the development is important to the local economy. The development would therefore be contrary to Planning Policy Statements 1, 3 and 7 and Local Plan Policies NE5 and RES5 and would be unacceptable in principle.

#### Impact on the character of the countryside

The Design and Access statement refers to the site as 'infill' however, in terms of the Core Strategy, in fill relates to sites located within a settlement boundary. Gaps such as these in rural locations are important features which should be retained for their own sake and this particular site makes a contribution to the entrance to the rural village settlement and the setting of 'The Cottage', an isolated residential dwelling to the west. It is therefore considered that to develop this site would have an adverse impact on the character of the countryside.

#### Siting, Design and Scale

The proposed dwelling is located towards the rear of the plot behind the established hedgerow approximately 6.5 metres from the highway. The design of the proposed dwelling is considered acceptable in terms of its traditional brick and tile design with gable and chimney detail facing the highway. The design and access statement identifies traditional design features to be incorporated which attempt to assimilate the design with its rural location, furthermore, the existing hedges which are an import feature of the area are to be retained. The attached garage is located behind the main dwelling.

The proposed height of the ridge is 8.5 metres and is significantly higher than the outbuilding which has been approved for conversion to a dwelling under a previous planning permission. The conversion has a maximum ridge height of 5.4 metres, however, there is a change in land levels and the two developments are situated some 49 metres apart. It is a concern that, even with the existing mature hedges, the proposal will appear out of scale in height with the surrounding properties. Street scene drawings have been requested from the agent so that this aspect can be fully considered. Further information will be reported as a late item.

#### Highway Safety and Parking

Local Plan Policy T5 requires the provision of two off-street car parking spaces for a three bedroom dwelling. The submitted plans illustrate this provision can easily be accommodated within the site and is accessed via the existing access off Main Road which was approved as part of the 2007 outbuilding conversion approval. Neighbours have raised concerns regarding width of the road and proximity to the bend at this location, however the Highway Authority has no objection to the proposal.

#### Impact on Neighbours

The location of the proposed development is such that it would not cause any detrimental impact on neighbours amenity through overshadowing, overlooking or loss of privacy. The separation distances required within the adopted SPG can be met adequately.

### Other Issues

A neighbour has commented that the site is too narrow, but the plans demonstrate that it is of adequate dimensions to accommodate a dwelling as proposed, and the proposed level of private amenity space exceeds the requirements of the adopted SPG. The comment that the application has been submitted for purely business reasons is not a planning consideration.

Mr Tredinnick MP has commented on the level of consultation undertaken. As this application relates to one dwelling, the nearest neighbour to the site was consulted and a site notice was displayed. This is in accordance with requirements of Circular 15/92 Publicity for Planning Applications.

The Design and Access Statement submitted with the application refers to the land as garden area, the Council's aerial photographs dated 2006 clearly show that at that time the site was a small field separate from the garden area to 1 Main Road. In addition, the 2007 application to convert the outbuilding refers to the site as a 'paddock'. The use of the land has therefore been changed without the benefit of planning permission within the last 10 years. An Enforcement investigation is currently underway.

### Financial Contributions

The application proposes a new residential unit as such a financial contribution is required towards the provision and maintenance of public play and open space in accordance with policy REC3 of the SPD on Play and Open Space and in line with the Council's Green Space Strategy and Audit. The site is identified within the Audit as being within the area for contributions towards the Ratcliffe Culey playing field. Should the application be approved a contribution of £1250.80 is required.

### Conclusion

Both central government guidance and adopted Local Plan policies seek to protect the countryside for its own sake. Overall the proposed scheme would constitute new development within an unsustainable, countryside location outside a settlement boundary with no special justification provided. The construction of a new dwelling on a prominent stretch of the central through road, would adversely affect the settlements character. Furthermore the height of the proposal would appear out of scale with the neighbouring dwellings further impacting upon the character of the area. The scheme would therefore be contrary to national guidance, PPS1, PPS 3 and PPS7 and Local Plan Policies RES5 and NE5 and it is recommended for refusal.

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

### **Reasons:-**

- 1 The site lies within a rural area where countryside policies apply. In such an area it is intended that a new dwelling will only be permitted when it is required for agriculture. In the opinion of the Local Planning Authority the proposed residential development would constitute an unacceptable form of development without justification in an unsustainable location by virtue of the site being located outside of a settlement

boundary within the countryside. As such the proposal is contrary to PPS1, PPS3 and PPS7, Policies RES5 and NE5 of the adopted Hinckley and Bosworth Local Plan, to the detriment of the rural amenity of the area.

- 2 In the opinion of the Local Planning Authority the proposed dwelling by virtue of its height is out of scale with other dwellings within the locality and would appear as an incongruous feature within the street scene and the countryside location, it is therefore contrary to policies BE1 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 3 In the opinion of the Local Planning Authority the lack of financial contribution to address the increase in pressure placed on Public Open Space facilities of the local area by the proposed development would not accord with policies REC3 and IMP1 of the adopted Hinckley and Bosworth Local Plan and the Borough Council's Supplementary Planning Document on Play and Open Space.

**Notes to Applicant:-**

- 1 List of plans used in the determination of this application:-  
Drawing 031, 032/A Rev A, 030/A Rev A,

**Contact Officer:-** Louise Forman Ext 5682

**Item:** 03

**Reference:** 09/00867/FUL

**Applicant:** Earl Shilton Baptist Church

**Location:** Land Adjacent To 74 Almeys Lane Earl Shilton

**Proposal:** **ERECTION OF FOUR FLATS AND ONE DWELLING HOUSE WITH ASSOCIATED ACCESS AND PARKING**

**Introduction:-**

This application seeks full planning permission for the erection of four flats and one dwelling on a parcel of amenity land on the corner of Almey's Lane, Earl Shilton. The application proposes four, two bed flats and a single three bed, 2 ½ storey house, which abuts number 74 Almey's Lane. A parcel of amenity space spans the width of the apartment block to the rear, and a small garden is proposed to the rear of the house. 8 parking spaces are arranged around the perimeter of the site.

The site is roughly square in shape, measures approximately 0.11 hectares and would be accessed from Almey's Lane via a new access situated to the north of the proposed dwelling. The site lies to the west side of Almey's Lane and is bounded to the south by a row of terrace properties; and to the west by Earl Shilton Baptist Church and graveyard. On the opposite side of the road to the east are 4 semi-detached ex-local authority properties and to the south east is the listed Church of St Simon and St Jude. Further afield the area is predominantly residential, with no distinct character. The site is owned by the Baptist church and was its former amenity space, however it has been left untended and has now become overgrown. There is a security fence along the road facing boundary and vegetation along the remaining boundaries. The site is elevated approximately 1.5m higher than Almey's Lane with a granite retaining wall opposite the listed church, however the site itself is flat and level.

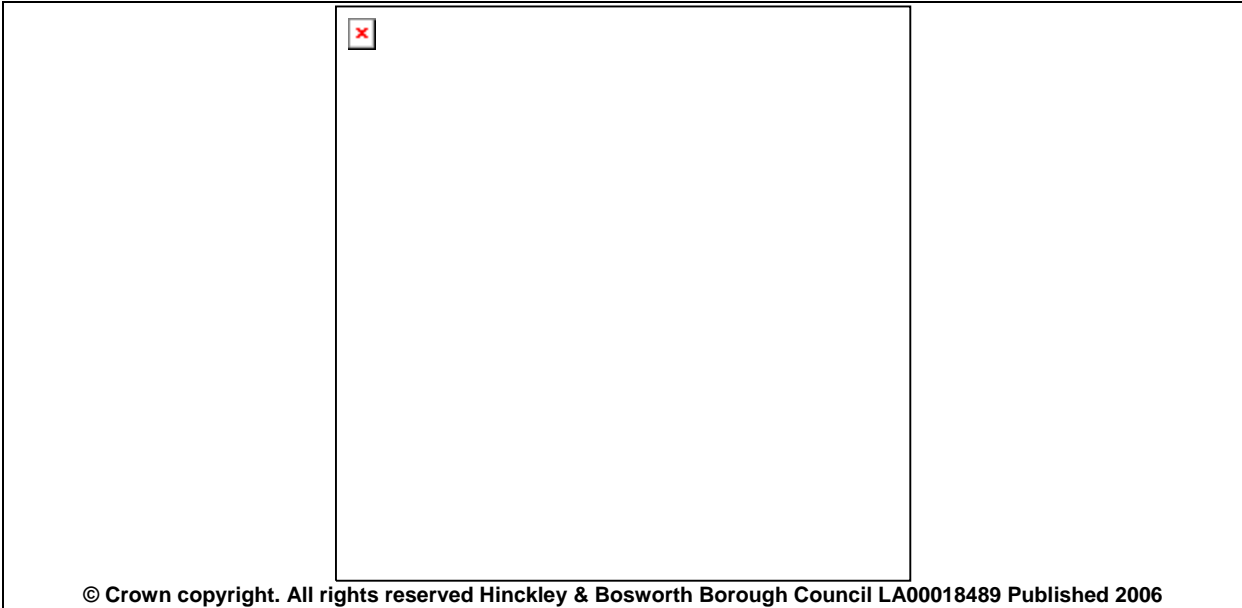
The application has been accompanied by a Design and Access Statement and an Archaeological Evaluation.

The design and access statement concludes that the development will give the land a clear function in the community, will provide residential accommodation which will be in keeping with the street scene, and planted open space, reflecting the open space around the Anglican Church opposite. The Archaeological survey excavated three trenches in locations which were defined as having archaeological potential, however the trial trenching revealed no archaeological finds, feature or deposits.

Since submission, an amended plan has been received. This reduces the numbers of off road parking spaces from 13 to 8. The 4 originally proposed along the rear boundary have been replaced with additional landscaping. The number of parking spaces provided are now in accordance with the guidelines issued by Leicestershire County Highways.

**History:-**

08/01174/FUL	Erection of four flats and one dwelling house with associated access and parking	Withdrawn	09.03.09
91/00925/4	Extension to Church	Approved	19.11.91



**Consultations:-**

Two letters of objection have been received, one from the owner of 74 Almeys Lane, and one from the tenant of this property. The letters raise concerns over the proximity of the development to number 74 Almeys Lane, suggests that the development is not in accordance with the Party Wall Act, has concerns over the developments proximity and eventual impact on the access to the side of the house and points out that this house was bought as a semi-detached and objects to it being made into a terrace. Questions are also raised over the legality of the consultation process.

No objections subject to conditions have been received from:-

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

The waste minimisation and recycling officer has suggested that it would be preferable to create an area near to the boundary for the residents to place their refuse and recycling.

No objection has been received from Earl Shilton Town Council.

### **Policy:-**

#### Central Government Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' sets out the overarching planning policies on the delivery of sustainable development through the planning system. 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 (PPS3): 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to ensure that housing developments are in suitable locations, which offer a good range of community facilities, with good access to jobs, key services and infrastructure. Paragraph 12 states that good design is fundamental to the development of high quality new housing.

#### Local Development Framework Core Strategy

Policy 2 seeks to ensure that development within Earl Shilton respects the local character, builds on its sense of place and helps to deliver regeneration of the town.

#### Adopted Local Plan Policy

The site lies within the settlement boundary of Earl Shilton 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 with regard to scale, layout, design and materials; ensure adequate highway visibility and parking standards; do not adversely affect the amenities of neighbouring properties; incorporate landscaping to a high standard.

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 development proposals should take into account the existing features of the site and make provision for further landscaping where appropriate.

Policy NE14 requires satisfactory arrangements to be made for the disposal of foul sewage and surface water and the protection of ground and surface waters.

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.

Policy REC3 requires the appropriate level of open space to be provided within development sites. Alternatively, a financial contribution can 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 T5 'Highway Design and Vehicle Parking Standards' refers to the application of appropriate standards for highway design and parking provision for new development.

### Other Guidance

Further guidance is provided within the Borough Council's Supplementary Planning Guidance for New Residential Development and the Supplementary Planning Documents concerning Play and Open Space and Sustainable Design. Leicestershire County Council document 'Highways, transportation and development' provides advice to developers on all highway related issues.

### **Appraisal:-**

The main considerations with regards to this application are: the principle of development; the design and layout, impact on residential amenity; access and parking; and impact on the character of the listed building.

### Principle of Development

The site is located within the defined settlement boundary for Earl Shilton. Policy RES5 is supportive of new residential development within the settlement boundary providing other policy and relevant planning matters are adequately addressed. The principle of residential development is therefore considered acceptable

### Design, Layout and Amenity

The proposal occupies an elevated position, similar to that of surrounding properties. The site currently has an open aspect, and uninterrupted views to the south west. The block of 4 flats will occupy a prominent position on a bend in Almey's Lane, rendering it highly visible from the south and north west. Its design incorporates a range of features which are reflective of the local character including stone headers and cills, fenestration detail which replicates that of the Baptist Church and decorative brickwork which adds proportion and breaks up the elevations. The proposal will have a steeply hipped roof and will be finished in render. There will be centrally positioned projecting gables to the front and rear. Given the range of property styles within the vicinity, the design proposed is considered to be in keeping.

The design and layout of the proposed dwelling, is similar to that of 74 Almey's Lane, although its ridge and eaves have been stepped down to ensure a subservient appearance and maintain the readability of the street. Architectural features and materials have been replicated and the detail to the northern elevation will provide a more attractive, and decisive 'end stop' to the row. The owner and tenant of 74 Almeys Lane have raised concerns over the proximity of this development to this property, however a concern of this type is dealt with by building regulations under the Party Wall Act and thus is not an issue that can be resolved through planning legislation. The remaining issues raised are not planning issues and will therefore not be appraised as part of this application.

As the parking is arranged around the perimeter of the site, and will be screened by planting, it will not be visible from the street scene and will reduce dominance of the car. A pedestrian

access to the Baptist Church will run centrally through the site, this will be denoted by its slightly raised level. Close boarded fencing and planting are proposed to provide privacy to the amenity areas associated with the development. The garden to the rear of the dwelling is slightly sub-substandard in size, however given the marginal shortfall and the abundance of open space within the vicinity, this issue alone does not warrant refusal of the application. The layout results in adequate separation distances between the main windows on the development and the existing properties on Almeys Lane. The minimal separation distance between the properties is 27m, which is 2m above that required by the SPG. Accordingly there will no adverse effects on privacy and amenity of surrounding residential properties.

### Access and Parking

The scheme proposes an access from Almeys Lane, situated in-between the proposed dwelling and block of flats. This has been designed with a pedestrian footpath on either side. To create the visibility splays and radii required for the new access, the proposed developments have been set back, and the ground level to the front of the flats, graded. 13 off road parking spaces were initially provided, however this was three more than the maximum number required, accordingly the number has been reduced to 8 and amended plan ref: 528. S. 03 Illustrates this. This revised layout has resulted in an increased amount of landscaping on the site, which helps screen the development, and assimilate it into its surrounds.

### Other Considerations

#### Impact on the Listed Building

Although the development will be opposite the site of the listed church, as this is situated well back from the highway and sits within its own walled grounds, and as the development incorporates a range of local architectural features, there are considered to be no material impacts which compromise the character or setting of the church.

The site lies within 400m of the Hall Field Recreational Ground and therefore a payment toward off site play and open space is required to help maintain and improve the facilities of this recreational space. A condition is recommended to this effect. The amount require is £6254.00

### Conclusion

In considering the issues, due to the layout of the development and the position of the windows, there are to be considered no adverse impacts on residential amenity, and the design of the proposal, which is in keeping with surrounding properties is complementary to the character of the street scene. Further the parking is situated away from the site frontage and the proposed landscaping will help screen the development and assimilate it into its surrounds. In respect of the access, although this is currently substandard, improvements can be secured 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 :**

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 design,

scale and layout of the proposal there are considered no material impacts on either visual or residential amenity, on the character of the street scene or on highway safety. Accordingly the proposal is considered acceptable.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, NE2, NE12, NE14, IMP1, REC3, T5

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Refs: 528.S01; 528.D.05B; 528.D.04D; 528.S05; 528. S.03 Design and Access Statement dated 5/11/09; Archaeological Services report No. 2009-15.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed development shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 Notwithstanding the 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 No development shall take place until full details of both hard and soft landscaping works and any boundary fencing 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) hard surfacing materials
  - ii) planting plans
  - iii) written specifications
  - iv) schedules of plants and trees, noting species, plant sizes and proposed numbers/densities
  - v) fencing details
  - vi) implementation programme
- 6 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 7 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.



- 8 if during the 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.
- 9 The development hereby permitted shall not commence before the provision and maintenance of off site open space of facilities whether by off-site physical provision or financial contributions as required in accordance with policy REC3 of the adopted Hinckley and Bosworth Local Plan and the approved Play and Open Space Guide has been secured in such a manner as is approved in writing by the Local Planning Authority.
- 10 The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided before the dwelling is first occupied and shall thereafter permanently remain available for such use unless otherwise agreed in writing by the Local Planning Authority.
- 11 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.
- 12 Before first occupation of the development hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above ground level and shall be so maintained in perpetuity, where in the control of the applicant.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt
- 3 To ensure the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 4 The dwelling house does not have sufficient amenity space to sustain further extension, in the interests of residential amenity, in accordance with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 5 To enhance the appearance of the development to accord with policy 21 of the adopted Local Development Framework Core Strategy and policies BE1 and NE12 of the adopted 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 21 of the adopted Local Development Framework Core Strategy and policies BE1 AND NE12 of the adopted Hinckley and Bosworth Local Plan.
- 7 To ensure safe development of the site and to protect the amenities of the future occupiers of the dwelling to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.

- 8 To ensure safe development of the site and to protect the amenities of the future occupiers of the dwelling to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 9 To ensure the provision of Play and Open Space to accord with policies REC3 of the adopted Hinckley and Bosworth Local Plan.
- 10 To ensure that adequate off-street parking and turning facilities are available to accord with policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 11 To reduce the possibility of deleterious material being deposited in the highway, to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 12 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site [www.planningportal.gov.uk](http://www.planningportal.gov.uk).
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The suitability of the ground for soakaways should be ascertained by using the test in B R E Digest No. 365 before development is commenced. The porosity test and soakaway design requires the approval of the Building Control Section. The soakaway must be constructed using concrete ring sections with a liftable cover or other approved materials to the satisfaction of the Local Authority.
- 6 In relation to condition 9 the play and open space contribution required in this case will be £6254.00.

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

**Item:** 04

**Reference:** 09/00934/FUL

**Applicant:** Mr And Mrs Bloor

**Location:** Home Farm Hall Lane Osbaston Nuneaton

**Proposal: CONVERSION OF BARN TO DWELLING, EXTENSIONS AND ALTERATIONS TO EXISTING DWELLING AND EXTENSIONS TO OUTBUILDINGS TO FORM GARAGES AND ANCILLARY ACCOMMODATION**

**Introduction:-**

This is a full application for the conversion of a redundant two storey barn to a four bedroomed dwelling, the conversion and extension of various single storey outbuildings to stables, games room, garaging and storage and single storey rear extensions and alterations to the existing farmhouse at Home Farm, Osbaston. The scheme involves the demolition of one outbuilding within the courtyard and the dutch barn to the north of the site, this is subject to a separate conservation area application also on this planning agenda.

The site is generally flat and rectangular in shape. The buildings are traditional brick and tile forming a cobbled courtyard area around the farmhouse which stands in a prominent corner position at the intersection of Hall Lane and Osbaston Lane. There are two access points to the property; one, off Osbaston Lane, will serve the barn conversion and the other, off Hall Lane, the existing dwelling.

The site sits to the north of the Osbaston Lane and Hall Lane junction, Osbaston Hall is located to the far north west, to the north, south and west is agricultural land, and to the east of the site is a range of other former farm buildings previously converted to residential use.

A Design and Access Statement has been submitted with the application which states that the farmhouse is currently being renovated. The proposed barn conversion utilises the existing openings where possible and one metal flue within the northern roof plane is proposed. The site of the outbuilding to be demolished within the courtyard will form part of the garden area for the barn conversion.

Updated Structural Survey information (September 2009) has been submitted with the application, the reports state that the barns are in sound condition and capable of conversion to domestic accommodation and that the amount of repairs and strapping is not considered to be excessive for this type of property.

Other information submitted in relation to the application includes: a report detailing potential alternative uses for the site which concludes that employments uses could be detrimental to the existing farmhouse in terms of general noise and disturbance and vehicle movements using the substandard access which would not be in the best interests of highway safety; a Tree Survey which states that the trees on site are in a state of decline and should be removed; a Protected Species Survey which found evidence of bats and nesting birds using the site; and a letter from a former resident of the farm confirms that the buildings have not been used since 1984.

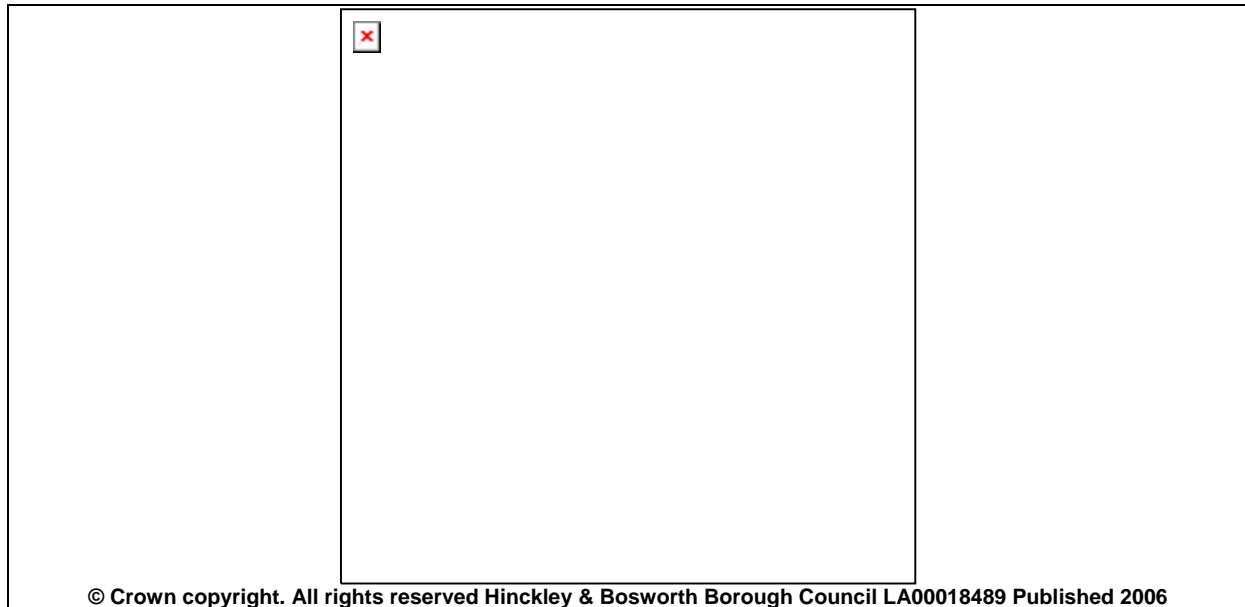
Amended plans have been received which retains part of one out building which was previously proposed to be demolished; changes the position of one opening on the barn conversion; and removes fencing that dissected the courtyard.

**History:-**

09/00914/CON	Demolition of outbuilding, dutch barn and part demolition of further outbuilding	Pending Decision
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99/00383/FUL	Conversion of outbuilding to dwelling and alterations to form garages and ancillary accommodation	Approved	05.07.99
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99/00384/CON	Demolition of outbuildings	Approved	09.07.99
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**Consultations:-**

No objections received from:-

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

The Director of Community Services (Ecology) has accessed the ecological report submitted and has requested further information be submitted to clarify certain matters before a final response can be provided.

The Head of Community Services (Land Drainage) recommends conditions on drainage and notes to applicant on permeable surfacing and soakaways.

At the time of writing the report, comments have not been received from the Director of Community Services (Archaeology), Historic Buildings Panel and Osbaston Parish Council.

Site notice and press notice were displayed and neighbours notified.

**Policy:-**

Central Government Guidance

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

scales for re-use; the need or desire to preserve buildings of historic interest or that contribute to local character.

### Regional Policy

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

### Local Plan Policy

The site is within the countryside and Osbaston Conservation area as defined in the adopted Hinckley & Bosworth Local Plan.

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

Policy BE7 of the adopted Hinckley and Bosworth Local Plan states that the primary planning policy in conservation areas is the preservation or enhancement of their special character and appearance. Any development within conservation areas should be sympathetic to the characteristic form in the area.

BE20 stipulates a number of criteria by which proposals in the countryside should adhere to. The proposed use should not adversely impact on the appearance and character of the landscape or building for conversion. Conversion of the building is not permitted if it can only be achieved by significant adaption and rebuilding. Future occupiers should not be affected by existing activities nor should the proposal impact on a protected wildlife habitat. The proposal should not affect Highway Safety and should comply with Highway criteria.

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

Policy REC3 requires the appropriate level of informal public 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 NE5 states that the countryside will be protected for its own sake. Planning permission will be granted provided that the development is important to the local economy and cannot be provided within or adjacent to an existing settlement and where the proposal does not have an adverse effect on the character and appearance of the landscape; is in keeping with the scale and character of existing buildings and the general surroundings, is effectively screened by landscaping and will not generate traffic likely to exceed the capacity of the highway network or impair road safety.

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

## Local Development Framework - Adopted Core Strategy

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

### Other Documents

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

The Osbaston Conservation Area Appraisal and Management Plan identifies the buildings associated with Home Farm as important within the conservation area as they part of Osbaston's heritage. It notes that the dutch barn is in need of maintenance.

The Play and Open Space Supplementary Planning Document (adopted September 2008) provides further guidance to developers in respect of the different types of open space and the level of financial contributions required. It requires contributions towards informal open space that is within 400 metres of the application site.

### **Appraisal:-**

The main considerations with regard to this application are the principle of development, design and to ensure that the design proposals respect the character of the building, conservation area and countryside location.

### Principle

A similar scheme for conversion of the barns and outbuildings was approved in 1999 (99/00383/FUL refers).

The site is within an area of countryside where policy seeks to protect the countryside for its own sake. The policy allows for change of use, reuse and extension of existing buildings providing the development would not have an adverse effect on the appearance or character of the landscape and is in keeping with the scale and character of existing buildings and the general surroundings. Furthermore, Supplementary Planning Guidance pays particular regard to the setting of converted buildings, requiring the appearance to retain their rural character and for the domestic appearance to be concealed from general view.

The updated structural surveys submitted with the application confirm that the proposals are capable of being carried out without excessive structural repairs or strapping to any of the buildings to be retained. These surveys have been assessed and it is considered that the conclusions reached are correct.

The applicant has submitted a report into possible alternative uses for the barns on site, such as industrial, offices, childcare and tourism uses. It states that the Highway Authority would be unlikely to support industrial or storage use due to the isolated location and poor highway unsuitable for HGV's, that offices would require additional parking to that required for a single dwelling as there is no public transport to this remote location and the Highway Authority would be likely to resist it as it would lead to a significant increase in traffic on roads unsuitable in width and design to cater for such an increase, that there would be no demand for childcare facilities in such a remote location, and that a tourism use would be purely reliant on a motorcar for accessibility and would therefore be no more sustainable than one additional dwelling. It is considered that the information contained within the alternative uses report needs further clarification, the agent has been requested to provide this and any further information received will be reported as a late item.

### Design

The SPG advises that agricultural buildings should retain their agricultural character prior to conversion, and thus suggests various design solutions to ensure this. The ground floor doors and windows are proposed to have wooden stable door type details to help to retain the rural buildings character. The design of the scheme is considered to be in keeping with the character of the building and the conservation area. There are three new openings and three rooflights proposed in the barn. The scheme differs from the previously approved scheme in that amended plans move one proposed new opening serving a bedroom to the opposite side of the barn which will improve the relationship of the proposed barn conversion with the existing dwelling in terms of safeguarding residential amenity without the need to provide screen fencing.

The extensions to the existing farmhouse are on the rear, single storey and face into the courtyard, they consist of the removal of an existing lean-to extension and rebuilding to form an extended dining area, small extension to form a snug and rear porch. They are not visible except within the site.

The garages and a games room to serve the farmhouse are formed by utilising and extending an existing outbuilding attached to the farmhouse which faces into the courtyard. The rear of the extended outbuildings will be visible from Osbaston Lane where the height of the existing ridge will be raised by 1.4 metres maximum height.

The proposed garages with hayloft above are an extension attached to the existing stables which will serve the barn conversion, its design is simple and is in keeping with the other outbuildings. Amended plans have been received which retains part of this building which was previously proposed to be demolished. This accords with the concerns of the potential effect on the conservation area by the removal of this part of the building.

### Impact on the Conservation Area and Countryside

The site and buildings are prominent forming an important feature within the conservation area. Since the previous application was approved in 1999, a conservation area appraisal has been undertaken which has highlighted the importance of the buildings on this site in terms of Osbaston's heritage.

The main concerns with regard to the original proposals were the loss of part of the outbuilding to the front of the site which helps to define the shape of the former farmyard and the dissection of the courtyard with close boarded fencing more appropriate in a urban area. Amended plans have been submitted which no longer propose partial demolition of the stable building to the west and include removing the fencing previously proposed. The front boundary wall is to be repaired to match the rest of the wall. An additional tree will be

removed as part of the amended scheme, but this is preferred in terms of keeping the original shape of the outbuilding adjacent to the lane, the trees on site have been surveyed and are considered to be in poor condition and of low importance within the conservation area.

There is no objection to the removal of one outbuilding which is sited within the courtyard. The dutch barn to the north of the site is identified within the conservation area appraisal because many dutch barns have been lost, however, it is accepted that this building is in a poor state of repair and there is no strong objection to its demolition.

The layout of the drive and front garden area to the barn conversion is not considered to be in keeping with the traditional farm setting, it has been agreed with the agent that the final layout be conditioned so that a suitable arrangement can be agreed and implemented prior to first occupation of the barn conversion.

It is considered that the proposal does not have an adverse effect on the countryside subject to the domestic elements being controlled by the removal of 'permitted development' rights in accordance with the previously approved application.

#### Access Arrangements

This application proposes utilisation of the existing accesses. The Director of Highways Transportation and Waste Management (Highways) has no objections to this proposal subject to consideration of standard highway conditions.

#### Ecology

The Director of Community Services (Ecology) has assessed the ecological report and has requested further information be submitted to clarify certain matters before a final response can be provided. This is in connection with discrepancies and omissions within the report in relation to bat roosts which were identified within some of the buildings. The ecologist who prepared the report has been requested to provide further information and the final response of the Director of Community Services (Ecology) will be reported as a late item.

#### Infrastructure Improvements

The site does not meet the requirements identified in Policy REC3 and the Supplementary Planning Guidance on play and open space due to its location and as such, no contribution can be sought for the additional dwelling on site.

#### Conclusion

In summary, the conversion of existing redundant agricultural buildings in the countryside to residential use can be acceptable in principle subject to the applicant demonstrating that the buildings are capable of conversion in structural terms and that other alternative uses have been fully explored. Subject to satisfactory resolution of the alternative uses and ecology issues, the proposal as amended is considered to have no greater impact on the openness and appearance of the countryside than the previous permission and respects the considerations of the recent conservation area appraisal and is likely to contribute to the character of the area, being compatible with the surrounding properties.



**RECOMMENDATION:-** That subject to the satisfactory resolution of the ecology and alternatives uses issues, the Director of Community Planning Services be granted delegated powers to issue planning permission subject to the conditions below. Failure to resolve the above issues by 17 February 2010 may result in the application being refused.

**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 government guidance and 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 given the design and layout would not have an adverse impact upon the character or appearance of the conservation area or countryside.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, BE7, BE20, NE5 IMP1, REC3 and T5

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed conversion, alterations, extensions and boundary wall shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 3 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 H and Part 2 shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.
- 4 Before any development is commenced on site a landscaping scheme shall be submitted to and approved by the Local Planning Authority. This scheme shall indicate the treatment proposed for all ground surfaces together with the species and materials proposed and their disposition.
- 5 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The hard landscaping shall be implemented prior to first occupation of the barn conversion hereby approved. The soft landscaping scheme shall be implemented during the first planting season following first occupation of the barn conversion hereby approved 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.
- 6 All windows and doors hereby approved shall be recessed by a minimum of 100 millimetres.

- 7 Prior to commencement of the development hereby approved, a scheme for the disposal of surface water drainage, incorporating sustainable drainage principles, shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented in accordance with the approved details before first occupation of the barn conversion hereby approved.
- 8 The use of the garages and stables shall at all times remain incidental to the enjoyment of the dwelling house and no trade or business shall be carried out there from.
- 9 Before the development commences the finished colour of the windows and doors shall be agreed in writing with the Local Planning Authority and implemented in accordance with the approved detail.
- 10 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drawings G/HFO/01-09, G/HFO/02-09, G/HFO/03-09, V/HFO/01 received on 30 November 2009. G/HFO/04-09(b) and V/HFO/02a received on 2 February 2010.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure that the development has a satisfactory external appearance to accord with policy BE1 and policy BE7 of the adopted Hinckley & Bosworth Local Plan.
- 3 To safeguard the rural character of the area and to preserve the character of the buildings and Conservation Area, to accord with policy BE7 of the adopted Hinckley and Bosworth Local Plan.
- 4 To enhance the appearance of the development to accord with policy BE1, policy BE7 and policy NE5 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure that the development has a satisfactory external appearance without affecting the character of the building, to accord with policy BE1, BE7 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 7 To ensure that the development is provided with a satisfactory means of drainage to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 8 To ensure that the use remains compatible with the surrounding area, to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 9 In the interests of visual amenity, to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 10 For the avoidance of doubt and in the interests of proper planning.

**Notes to Applicant:-**

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

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

- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site [www.planningportal.gov.uk](http://www.planningportal.gov.uk).
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The 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.
- 6 Access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet.
- 7 The sewage treatment plant proposed will require the consent of the Environment Agency and the applicant must comply with any conditions imposed by the Environment Agency.
- 8 List of plans used in the determination of this application:-  
Drawings G/HFO/01-09, G/HFO/02-09, G/HFO/03-09, V/HFO/01 received on 30 November 2009. G/HFO/04-09(b) and V/HFO/02a received on 2 February 2010.

**Contact Officer:-** Louise Forman Ext 5682

**Item:** 05  
**Reference:** 09/00914/CON  
**Applicant:** Mr And Mrs Bloor  
**Location:** Home Farm Hall Lane Osbaston Nuneaton  
**Proposal:** DEMOLITION OF OUTBUILDING (B3) AND DUTCH BARN (B6)

**Introduction:-**

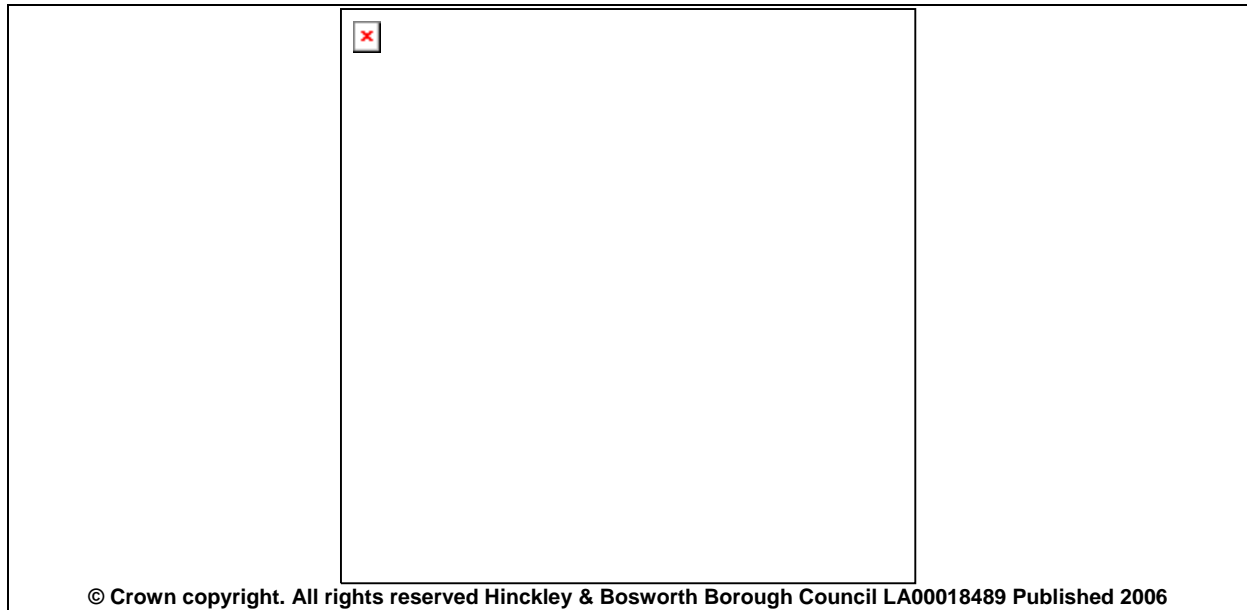
This application seeks conservation area consent for demolition of a barn and outbuilding within the Conservation Area at Home Farm, Osbaston. This report should be read in conjunction of application 09/00934/FUL on this agenda.

Information submitted in relation to this application includes: a Heritage Statement which justifies the loss of the buildings in terms of local plan policy; and a Tree Survey which states that the trees on site are in a state of decline and should be removed.

Amended plans have been received which retains the part of one outbuilding which was previously proposed to be demolished.

**History:-**

09/00934/FUL	Conversion of a barn to a dwelling, alterations to the existing dwelling and extensions to outbuildings to form garages and ancillary accommodation	Pending Decision	
99/00383/FUL	Conversion of outbuilding to dwelling and alterations to form garages and ancillary accommodation	Approved	05.07.99
99/00384/CON	Demolition of outbuildings	Approved	09.07.99



### **Consultations:-**

The Borough Council's Arboricultural Consultant has confirmed that the trees are in poor condition, do not have a high amenity value and concurs with the findings in the submitted tree report.

At the time of writing the report comments have not been received from the Director of Community Services (Archaeology), Historic Buildings Panel and Osbaston Parish Council.

Site notice and press notice were displayed and neighbours notified.

### **Policy:-**

#### Local Plan Policy

The site is within the countryside and Osbaston Conservation area as defined in the adopted Hinckley & Bosworth Local Plan.

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

Policy BE7 of the adopted Hinckley and Bosworth Local Plan states that the primary planning policy in conservation areas is the preservation or enhancement of their special character and appearance. Any development within conservation areas should be sympathetic to the characteristic form in the area.

Policy BE8 states that applications for demolition in conservation areas will be refused except where it can be demonstrated that the loss of the building and proposals for its replacement will not be detrimental to, and would enhance the character and appearance of the conservation area.

#### Other Documents

The Osbaston Conservation Area Appraisal and Management Plan identifies the buildings associated with Home Farm as important within the conservation area as they part of Osbaston's heritage. It notes that the dutch barn is in need of maintenance.

### **Appraisal:-**

The main consideration in respect of this application is the effect the proposals will have on the character and appearance conservation area.

#### Impact on the Conservation Area and Countryside

The site and buildings are prominent forming an important feature within the conservation area. Since the previous application was approved in 1999, a conservation area appraisal has been undertaken which has highlighted the importance of the buildings on this site in terms of Osbaston's heritage.

The main concerns with regard to the original proposals were the loss of part of the outbuilding to the front of the site which helps to define the shape of the former farmyard and is an important feature within the conservation area when viewed from Hall Lane. Amended plans have been submitted which no longer propose partial demolition of this building. The front boundary wall is to be repaired to match the rest of the wall. An additional tree will be removed as part of the amended scheme, but this is preferred in terms of keeping the original shape of the outbuilding adjacent to the lane.

There is no objection to the removal of the outbuilding which is sited within the courtyard and is not highly visible from outside of the site. The dutch barn to the north of the site is identified within the conservation area appraisal because many dutch barns have been or are being lost, however, it is accepted that this building is in a poor state of repair and there is no strong objection to its demolition. The full application proposes the footprints of the removed buildings to become amenity space for the existing dwelling and barn conversion on the site, the restoration of the land will therefore be dealt with as part of the landscaping condition to the full application.

#### Trees

The trees on site have been surveyed and are considered to be in poor condition and of low importance within the conservation area.

#### Conclusion

The amended proposals respect the considerations of the recent conservation area appraisal, the scheme meets policy requirements, does not have an adverse effect on the conservation area and is likely to contribute to the character of the area. It is therefore before Members with a recommendation of approval.

### **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 the demolition of the buildings would not be detrimental to the character or appearance of the conservation area

and the proposals for its restoration would enhance the character and appearance of the conservation area.

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

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, BE7 and BE8

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drawings G/HFO/01-09, G/HFO/02-09, G/HFO/03-09, V/HFO/01 received on 30 November 2009. G/HFO/04-09(b) and V/HFO/02a received on 2 February 2010.

**Reasons:-**

- 1 To comply with the requirements of Section 74 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 2 For the avoidance of doubt and in the interests of proper planning.

**Notes to Applicant:-**

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

**Contact Officer:-** Louise Forman Ext 5682

**Item:** 06

**Reference:** 09/00931/FUL

**Applicant:** Mr Frederick Watson

**Location: 10 West End Barton In The Beans Nuneaton**

**Proposal: ERECTION OF ONE DWELLING**

**Introduction:-**

This application seeks planning permission for the erection of a two storey detached dwelling located on land to the northern side of 10 West End, Barton in the Beans which has formerly been used as garden to that property.

West End is located to the edge of the settlement and is characterised by residential dwellings of different styles and designs on varying sized plots. No 10 West End is one of a pair of semi detached properties. To the north, West End becomes a gated track which is used by walkers and horse riders.

The scheme proposes a two bedroomed property with amenity space and two parking spaces. The scheme also shows two parking spaces retained at No 10. A street scene drawing has been submitted with the application.

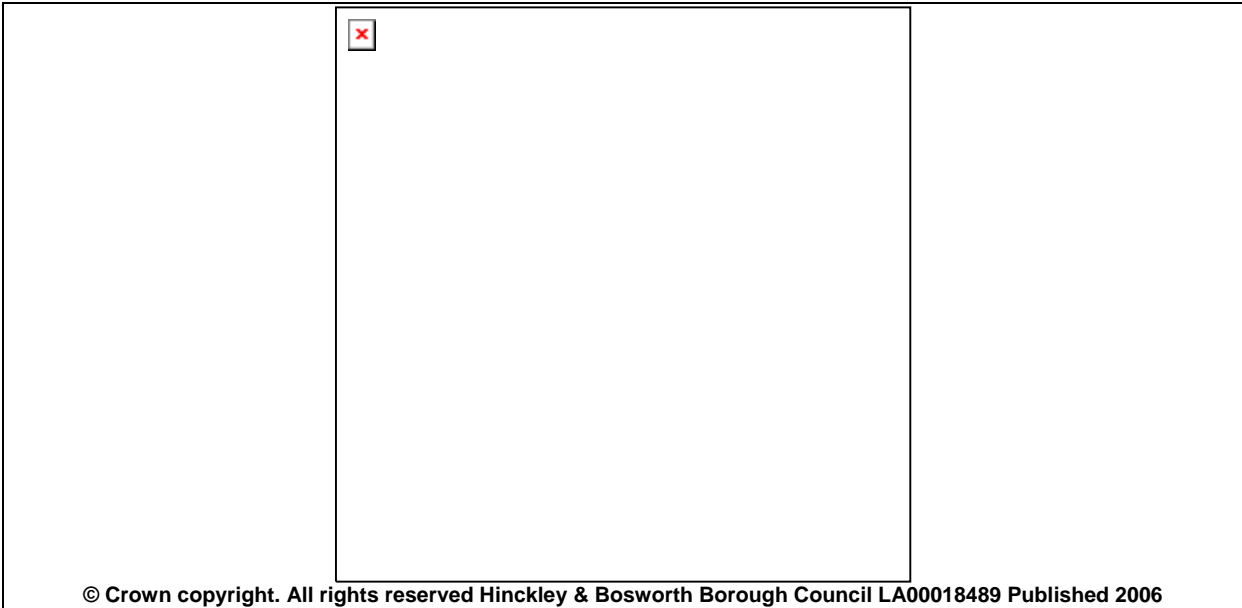
The Design and Access Statement submitted with the application states that the new dwelling has been designed to meet the requirements set out in the Supplementary Planning Guidance for New Residential Development in terms of parking, private amenity space, boundary treatment and spaces between dwellings. Special attention has been given to minimise the impact to No 10 West End.

An Ecological survey has been submitted with the application which states that the site is of limited wildlife value and that there were no indications of any protected species on or near the application site.

Amended plans have been received which provide fixed and obscure glazed windows to the side elevations at first floor level.

**History:-**

None.





## **Consultations:-**

No objections received from:-

Shackerstone Parish Council  
The Head of Community Services (Pollution).

The Director of Community Services (Ecology) recommends a watching brief.

The Director of Community Services (Archaeology) recommends conditions as the site lies within an area of archaeological interest.

Director of Highways, Transportation and Waste Management recommends refusal on the grounds that the junction is inadequate and refers to a previous appeal decision relating to another site at West End which was dismissed.

The Head of Community Services (Land Drainage) requests notes to applicant regarding soakaways and permeable paving.

Five neighbour comments received on the following grounds:-

- a) that policies are against new residential development in unsustainable villages
- b) that there is no site notice
- c) query about description of address
- d) small site
- e) not enough space for soakaway
- f) building materials would need to be stored on site during construction
- g) site levels are not accurate
- h) concern over parking
- i) highway safety at junction
- j) windows will overlook No14.

Site notice posted.

## **Policy:-**

### Central Government Guidance

Planning Policy Statement 1 'Delivering Sustainable Development' promotes sustainable and inclusive patterns of urban development and the more efficient use of land.

Planning Policy Statement 3 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 states that the planning system should deliver housing in suitable locations which offer a good range of community facilities and with good access to jobs, key services and infrastructure. Paragraph 14 promotes designs and layouts that make efficient use of land. Paragraph 16 lists matters to be considered when assessing design quality, which includes assessing the extent to which the proposed development is well integrated with and compliments, the neighbouring buildings and the local area more generally in terms of scale, density, layout and access.

### Local Plan Policy

The majority of the site is within the settlement boundary of Barton in the Beans. A small area of the proposed garden area is located outside of the settlement boundary.

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 compliment or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Development should ensure adequate highway visibility for road users and adequate provision for on and off street parking for residents and visitors together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

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.

Policy RES5 states that on sites that are not specifically allocated in the plan for housing, planning permission will only be granted for new residential development if the site lies within a settlement boundary and the siting, design and layout of the proposal do not conflict with the relevant plan policies.

Policy REC3 requires the appropriate level of informal public 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 T5 refers to the application of appropriate standards for highway design and parking targets for new developments. Leicestershire County Council's document 'Highways, Transportation and Development' provides further highway design guidance and parking targets.

#### Local Development Framework - Adopted Core Strategy

Policy 13 of the adopted Core Strategy defines Barton in the Beans as a Rural Hamlet not considered as a sustainable location for development. Because of the limited services within such settlements only very limited development is proposed, confined to infill housing development with a mix of housing types and tenures within the settlement boundary and rural exceptions sites that meets local need and complies with Policy 17.

#### Other Relevant Documents

The Borough Council's Supplementary Planning Guidance on New Residential Development provides further guidance for developers on density, design, layout, space between buildings and landscaping/boundary treatments along with highways and parking. The main aims of the guidance are to ensure that new developments are well integrated into their surroundings and offer a good standard of security and amenity to future residents whilst protecting the amenity of existing occupiers. Housing developments should make efficient use of land and be of appropriate density taking into account the general character of the surrounding area.

The Play and Open Space Supplementary Planning Document (adopted September 2008) provides further guidance to developers in respect of the different types of open space and the level of financial contributions required. It requires contributions towards informal open space that is within 400 metres of the application site.

#### **Appraisal:-**

The main considerations with regards to this application are principle, design, impact on neighbours amenity, impact on highways, and infrastructure requirements.

### Principle

The majority of the site, including the footprint of the building, is located within the settlement boundary of Barton in the Beans and therefore residential development is considered acceptable in principle. The small area of the site which is outside limits to development is to be utilised as garden, this is its current use, it is therefore considered to be acceptable in principle.

### Design and Layout

The design comprises a modest cottage style 2 storey detached dwelling with a proposed roof height of 7.1 metres. The design incorporates features such as a corbelled brick detail to the eaves, chimney, stone cills and arched headers on the ground floor windows which are details found within the local area. The submitted drawings show two off road parking spaces and private amenity space, both in accordance with current standards and policy guidance for the size of dwelling proposed. It is considered that the design and layout proposed are acceptable and characteristic of the surrounding area.

### Impact on Amenity

The proposed dwelling is located within land that was formerly the side garden of No 10 West End. It appears that this site has been severed from the original dwelling which is now in separate ownership but there is no strong treatment along the shared boundary. No 10 West End has three side windows which are not principal windows which face the site and a conservatory located on the rear which has clear glazed windows to the side facing the application site. The proposal contains four small windows in the southern elevation which are approximately 9 metres from the side wall of No 10, and a door located 13 metres therefrom. These openings do not comply with the guidance contained within the Supplementary Planning Guidance but with a proper boundary treatment, the ground floor openings would be acceptable. Amended plans have been received which propose that the side windows at first floor level are to be obscure glazed and non opening in order to avoid any over looking issues.

No 14 West End, which is located to the north of the site has one side window at ground floor level which faces the site, this window serves a non habitable room. This neighbour has raised concerns that the development will overlook his property, the proposal has three windows in its northern elevation, two at ground floor and one at first floor level. The ground floor window proposed to serve the utility room located in this elevation could be screened by requiring a suitable boundary treatment by condition, the other two windows in the northern elevation are small, and due to the orientation of the proposed dwelling they face down the lane and are unlikely to cause any significant overlooking on the neighbouring property. The amended plans received show the first floor window in this elevation as non opening and obscure glazed.

### Highway Considerations

The scheme shows the provision of parking for both properties after development which is in accordance with current adopted policy. However, the Director of Highways, Transportation and Waste Management recommends refusal due the poor junction of West End and Main Street and increased traffic. He refers to a previous appeal decision for the erection of one dwelling on the opposite side of West End, which was dismissed on the basis of the junction being inadequate.

### Infrastructure Improvements

Residential schemes of fewer than 20 dwellings are required by policy REC3 of the Local Plan 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 the 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.

### Other Considerations

Neighbours have raised concerns regarding the size of the site, this is considered to be acceptable for the size of the dwelling proposed and the proposed amenity space complies with policy requirements for new residential development. The site levels submitted have been verified by the Council's Building Control Officer. A site notice has been displayed close to the site and the site has been revisited to ensure it was still being displayed which was the case. The description of the site is considered acceptable as the land still appears as garden land to No 10 West End and it is quite clear from the application details where the proposed development is. The safe storage of building materials during construction would be a matter for the developer.

### Conclusion

The erection of a dwelling on this plot would be acceptable in terms of being within the settlement boundary, the design, siting and parking are in accordance with policy and therefore also considered acceptable. Furthermore it is considered that the proposal would not adversely effect the amenities of adjacent dwellings. However, the Director of Transportation, Highways and Waste Management has recommended refusal on the grounds of an unacceptable increase in traffic using the substandard junction of West End and Main Street.

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

#### **Reasons:-**

- 1 The proposal, if permitted could result in an unacceptable increase in traffic using the junction of West End & Main Street which lacks appropriate width, geometry and visibility splays for the speed of traffic on the main road which could lead to increased dangers for road users. The proposal is therefore contrary to the aims of policy T5 of the adopted Hinckley and Bosworth Local Plan and the guidance contained within Leicestershire County Council's current highway design guidance, 'Highways, Transportation and Development'.
- 2 In the opinion of the Local Planning Authority the lack of financial contribution to address the increase in pressure placed on Public Open Space facilities of the local area by the proposed development would not accord with policies REC3 and IMP1 of the adopted Hinckley and Bosworth Local Plan and the Borough Council's Supplementary Planning Document on Play and Open Space.

#### **Notes to Applicant:-**

- 1 List of plans used in the determination of this application:-  
Amended Drawing B09/17/P01C received on 29 January 2010.

**Contact Officer:-** Louise Forman Ext 5682

**Item:** 07

**Reference:** 09/00950/FUL

**Applicant:** Mallory Park (Motorsport) Ltd

**Location:** Motorsport Ltd Mallory Park Church Road Kirkby Mallory Leicester

**Proposal:** GROUNDWORKS TO CREATE EXTENSION TO RUN-OFF AREA OF  
CIRCUIT ALONG WITH CREATION OF EARTH BANK AND POND.

**Introduction:-**

This application seeks full planning permission for ground works to create an extension to a safety run-off area of Mallory Park Race Circuit adjacent to Gerard's Bend and the earth dam at the southernmost part of the track, together with the creation of earth banks and a pond in the field to the immediate south of the circuit. The extension to the safety run-off area is required to improve the safety standards of the circuit following annual track inspections by the Royal Automobile Club (RAC), Auto Cycle Union (ACU) and British Super Bikes (BSB) . The RAC and ACU will only issue track licenses if their standards are met and the BSB will only attend when the necessary licenses have been issued. The earthworks and pond together with additional landscaping are intended to provide an enhanced habitat and improve the visual appearance of the landscape. The current proposal is one of a number of ground work operations relating to the site to improve the safety of the circuit for competitors, the facilities for customers within the venue and the visual appearance of the overall site.

The site is located in the countryside to the south west of the village of Kirkby Mallory and is part of an established motor sport venue and tourist attraction. The southern boundary to the circuit is defined by an earth dam which retains the water that forms a lake in the middle of the circuit. The dam has a steep southern slope down to the field to the south which is approximately 5 metres lower than the circuit. The field is defined by mature boundary hedgerows containing a number of mature and semi mature trees. There are also a number of trees on the banks of the small stream/lake outlet that runs from the bottom of the earth dam southwards through the middle of the field and divides it into two parts. There is a single mature tree in the middle of the western part. To the west of the application site is a small area of woodland that has previously been identified as being of Parish level ecological importance.

A full site survey to establish existing and proposed ground levels and ground profiles on the 3.68 hectares site have been undertaken and submitted with the application. The run-off area extension to the south of the race track will project up to 35 metres into the field to the south at a height of approximately 5 metres whilst the earth banks and re-grading to the east of the run-off area extension is more gradual. The run-off extension and earth banks will be formed from cut and fill of approximately 4,200 cubic metres of existing topsoil and subsoil on site together with approximately 38,000 cubic metres of imported inert material also consisting of topsoil and subsoil. A related application has been submitted to the Leicestershire County Council (LCC reference no. 2010/C177/04, HBBC reference no. 10/00013/C) for the tipping of inert waste and a report is included as a separate item within this agenda.

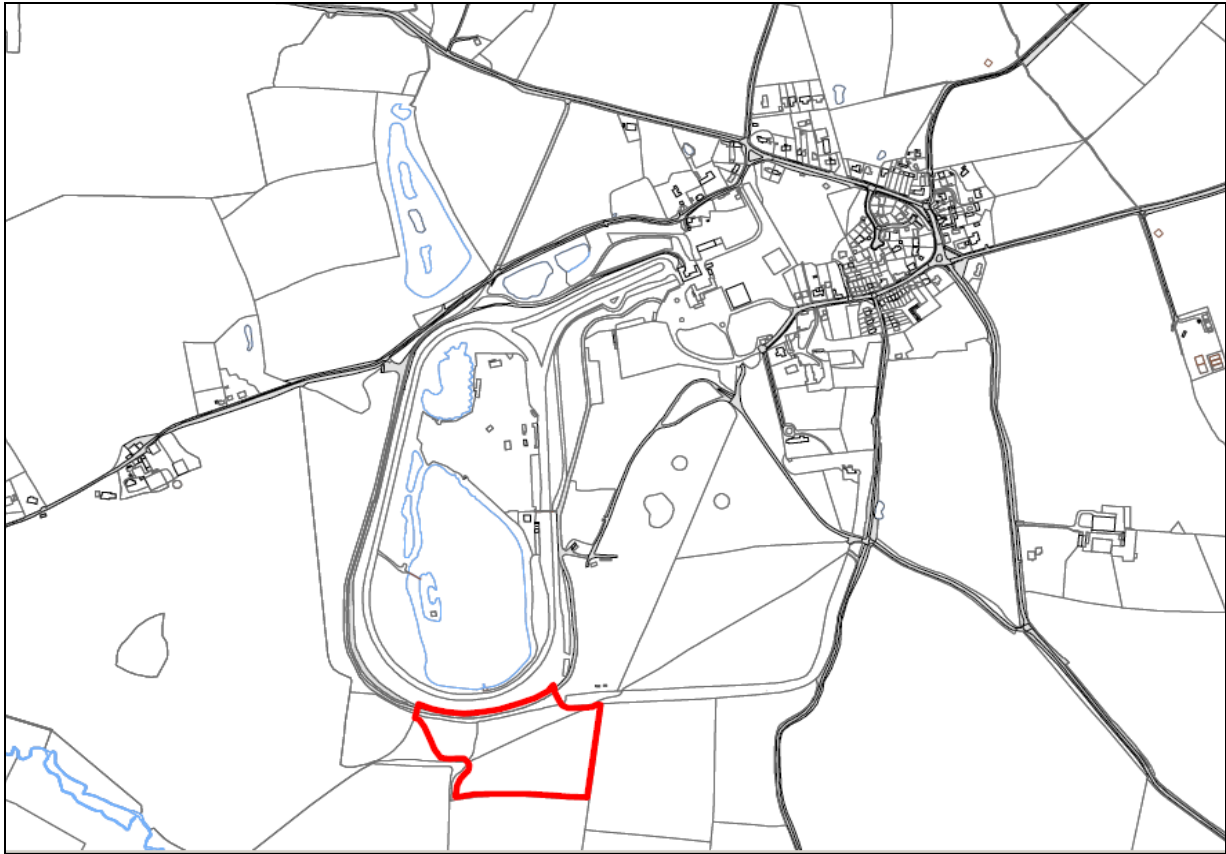
A Design and Access Statement, Biodiversity Survey, Protected Species Survey, Great Crested Newt Survey, Tree Survey and Noise Impact Assessment have been submitted with the application. The Design and Access Statement and supporting letter confirms that the access and return route for the vehicles involved in the importation of materials will be via the A47, along Shilton Road, along the applicant's private track, across Barwell Lane and into the circuit to avoid vehicles having to pass through the village. It is estimated that there will be an average of 50 vehicles per day, delivering an average of 1000 tons of material per day from local sites over a time span of between 15 - 25 weeks between the hours of 8.00am and 4.30pm Mondays to Fridays only. All sources of soil will be checked for any contamination before delivery to the site and records of delivery details kept for inspection by the relevant authorities. Following completion of the ground works the land will be re-seeded with grass along with additional tree and shrub species planting to enhance the visual appearance of the site.

The Biodiversity Survey, Protected Species Survey and separate Great Crested Newt Survey assess the various habitats that exist within the site and the potential for protected species and recommend various measures to protect and enhance or, where necessary, relocate or replace existing habitats. A landscaping scheme has been suggested within the Biodiversity Survey and includes the planting of native woodland species and shrub areas to replace the trees and scrub areas lost as a result of the development and relocation of the important grassland habitats found within the application site. The Tree Survey records the existing trees within and in the vicinity of the site and their condition. It identifies those that will be lost as a result of the proposed development and recommends that appropriate Tree Protection Zones are established around trees to be retained in order to protect them from any adverse effects during development. A Noise Impact Assessment has also been submitted but this relates to a previous planning application for the construction of an earth bund to the eastern boundary of the circuit.

**History:-**

Whilst there is a substantial planning history associated with the overall site, the most recent applications detailed below are the most relevant to this application.

08/00374/FUL	Re-Profiling of Land and Creation of New Earth Bund to Reduce Noise Pollution	Approved	15.09.08
06/01361/FUL	Re-Profiling of Land and Reduction of Noise Pollution	Approved	07.03.07



**Consultations:-**

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

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

Director of Community Services (Ecology) does not object but in view of the presence of an area of significant grassland a condition requiring a method statement to deal with its relocation within the site is recommended.

The Director of Community Services (Rights of Way) advises that there are two public footpaths (T76 and T85) that cross the site and additional information has been requested from the agent before a formal response is provided on the likely impact of the development on these rights of way.

Borough Council's Arboricultural Consultant identifies six significant trees affected by the proposals of which one of TPO quality is to be retained (T2) and one of TPO quality is to be lost as a result of the proposed development (T9). The other four have poor form or are in poor condition and their loss could be mitigated by replacement planting of native woodland or parkland trees. Amendments and additional information is recommended in respect of the submitted Tree Protection Plan.

Head of Community Services (Pollution) raises no objection subject to the proper certification of imported materials and traffic associated with the development being routed to avoid Kirkby Mallory village.

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

Environment Agency  
Director of Highways, Transportation and Waste Management (Highways)  
Natural England  
Ramblers Association  
Peckleton Parish Council  
Site Notice  
Neighbours.

## **Policy:-**

### Central Government Guidance

Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas in paragraph 7 states that planning authorities should adopt a positive approach to proposals designed to improve the viability of existing facilities that play an important role in sustaining village communities. Paragraph 15 seeks to protect and, where possible, enhance the quality and character of the wider countryside. Paragraph 16 supports countryside based enterprises and activities that contribute to rural economies and promote recreation in and the enjoyment of the countryside and conserves specific features and sites of landscape and wildlife value. Paragraph 34 states that tourism and leisure activities are vital to many rural economies and supports sustainable rural tourism and leisure developments that benefit rural businesses, communities and visitors and which do not harm, the character of the countryside. It also recognises that in areas designated for their landscape or nature conservation qualities there will be scope for tourist or leisure related developments, subject to appropriate control to ensure that the particular qualities of the areas are conserved.

Planning Policy Statement 9 (PPS9): Biodiversity and Geological Conservation in paragraph 9 states that sites of local biodiversity interest have a fundamental role to play in meeting overall national biodiversity targets. Paragraph 14 states that development proposals provide many opportunities for building in beneficial biodiversity features as part of good design. When considering proposals, local planning authorities should maximise such opportunities in and around developments.

Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management sets out the Government's policy objectives on waste, with the overarching intention to protect human health and the environment by producing less waste and re-using it as a resource wherever possible.

The Good Practice Guide on Planning for Tourism states that tourism, in all its forms, is of crucial importance to the economic, social and environmental well-being of the country. The planning system has a vital role to play in terms of facilitating the development and improvement of tourism in appropriate locations. Tourism developments may offer considerable opportunities to conserve and enhance the local environment and its inherent qualities and protect and improve biodiversity through the creation of new features of wildlife interest. Such advantages will be important considerations in assessing the overall sustainability, and thus acceptability, of a particular proposal.

### Local Development Framework - Adopted Core Strategy

Policy 13 supports the development of the tourism industry in rural hamlets in line with Policy 23. Policy 23 states that tourism development for extended visitor attractions will be encouraged where the development can help support existing local community services and facilities; is of an appropriate scale to minimise impact and assimilate well with the character



of the surrounding area with appropriate landscaping; adds to local distinctiveness and the economic wellbeing of the area.

#### Adopted Hinckley and Bosworth Local Plan

The site lies in the countryside outside the settlement boundary of Kirkby Mallory as defined in the Hinckley and Bosworth Local Plan.

Policy BE1 seeks to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area; avoid the loss of vegetation and features that contribute to the local environment and minimise the impact of the development on it; incorporate landscaping to a high standard; have regard to the safety of individuals and property and not adversely affect the occupiers of neighbouring properties.

Policy NE5 states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is either important to the local economy or is for sport or recreation purposes and where it does not have an adverse effect on the appearance or character of the landscape; will not generate traffic likely to impair road safety and is effectively screened by landscaping.

Policy NE7 states that development that would damage sites of county and/or local nature conservation significance will not be permitted unless an overriding local need is identified for which there is no alternative. Where development on such sites is permitted, conditions will be imposed to minimise disturbance, conserve its features of nature conservation or ecological interest and provide new ecological sites where damage is unavoidable.

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

Policy NE14 requires the water quality and ecology of watercourses and groundwater resources to be protected.

Policy T5 refers to the application of appropriate highway standards. These are currently set out in the document 'Highways, transportation and development'.

#### **Appraisal:-**

The main considerations with regard to this application are the principle of the development and its impact on the surrounding countryside, biodiversity, the amenities of the occupiers of neighbouring properties and highway safety.

#### Principle of Development

Mallory Park Race Circuit is a major tourist and leisure attraction within the borough and holds prestigious events providing world-wide promotion of the locality. Following recent track safety inspections by the relevant authorities it has been recommended that improvements be made to the existing run-off area on the outside of Gerard's Bend to improve track safety. Without such improvements there is a possibility that certain forms of racing currently held at the circuit would no longer continue and this may have an adverse impact on the status of the circuit and, potentially, its economic viability. Whilst the site is in a

countryside location it is adjacent to, and part of, an established motor sports complex and the principle of development is, therefore, considered to be acceptable in this case in respect of policies 13 and 23 of the recently adopted Core Strategy and policies BE1 and NE5 of the adopted Local Plan.

#### Impact on the Countryside and Biodiversity of the Site

The scale of the extension to the run-off area is relatively small in comparison to the overall size of the facility, although the proposal involves the importation of a significant amount of materials, and associated disturbance and vehicle movements.

The engineering works involved will inevitably change the local topography and appearance of the application site which is currently a gently sloping relatively flat grassed field, particularly in the short term until planting is re-established. However, the application site is not particularly prominent within the wider landscape given that it is screened to some extent by existing field boundary hedgerows with mature and semi-mature trees and small woodland areas in close proximity. A sensitive landscaping scheme would help to assimilate the development into the surrounding landscape and could be secured by an appropriately worded condition. The planting of trees of native species would enhance the character and appearance of the site and replace those lost as a result of the proposed development or from defect and age identified in the submitted Tree Survey. Two trees of TPO quality are directly affected by the proposed development, one would be lost as it is located within the extension to the safety run-off area and the other is to be retained, although this would require tree/root zone protection measures to be incorporated. The Borough Council's Arboriculture Consultant has raised concerns in respect of inadequate root protection areas and incomplete tree protection details within the submitted information. Any further details received will be reported as a late item to the main agenda.

Whilst no evidence of bats was found, potential roost sites are available in trees within and around the site and where lost these could be replaced by mitigation measures including the provision of bat and bird boxes in mature trees to be retained. Shrub and scrub planting on the new steep slope between the extended run-off area and the field below would re-establish this habitat lost from the existing slope and will also consolidate the ground by preventing soil creep and erosion.

By virtue of the changes to the topography, the proposed development would provide an opportunity to create a number of different habitats through the creation of more varied and pronounced ground levels, new planting and a new water body. Concern has been expressed regarding the potential loss of currently undesignated areas of neutral grassland priority habitat within the application site and, whilst it has been suggested that this could be re-located within the site, it is also recognised that such methods are not guaranteed to be successful. A condition has therefore been recommended by the Director of Community Services (Ecology) requiring the submission and prior approval of a method statement for translocation of the grassland turf which is included within the recommendation. No evidence of water vole or great crested newt was found within the site. Several badger foraging routes were found but no badger setts were found either on site or within 100 metres of the site boundaries.

#### Impact on Neighbouring Properties

The nearest residential properties to the site where ground works are to take place are Brockey Farm over 400 metres to the south and Keepers Cottage over 500 metres to the north east. Given these separation distances, the ground works themselves are unlikely to adversely affect any residential amenity directly in terms of noise and disturbance. Keepers Cottage is, however, within 100 metres of the proposed entrance to the site off Barwell Lane

and given the estimated number of vehicle movements required to import the necessary materials to the site there is a potential for disturbance in terms of noise from comings and goings, together with associated dust migration. The applicant has provided details in respect of hours of deliveries that are between 8.00am and 4.30pm during weekdays only and, in addition, it is recognised that the development is limited in terms of the amount of imported materials required. On balance, whilst the proposed development has the potential to cause some disturbance in terms of noise and dust from traffic movements, this would only be for a limited period during the import of the materials, and not considered significant enough to justify refusal of the application.

### Highway Issues

As a result of the previous planning permissions at Mallory Park Circuit involving the importation of materials, an appropriate route was identified for associated traffic to avoid unsuitable vehicle movements through the village and a temporary traffic signal system was installed on Barwell Lane at its junction with the applicant's private track leading to Shilton Road. This system appears to have been effective in maintaining highway safety in the past and a similar system could be used during implementation of the proposed development. No response has been received at the time of writing this report from the Director of Highways, Transportation and Waste Management (Highways). Any response will be reported as a late item to the main agenda.

The Director of Community Services (Rights of Way) advises that there are two public footpaths (T76 and T85) that cross the site and additional information has been requested from the agent before a formal response is provided on the likely impact of the development on these rights of way. Any response will be reported as a late item to the main agenda.

### Conclusion

The proposed extension of the run-off area and re-profiling of the land to create an earth bank and pond is considered to be acceptable in principle given the existing use of the adjacent site for a variety of motor sports and the need for improved safety measures for competitors to allow the activities to continue safely. Whilst the ground works and the importation of materials may provide some disturbance to neighbouring properties, this would not involve traffic movements through the village as an alternative route is available and would be only for a time limited period. On balance, therefore, the proposed development is not considered to be so detrimental to neighbours amenities to warrant refusal of the application. In addition, the proposed earth bank and pond together with a substantial planting scheme would improve the overall character and appearance of the local landscape and has the potential to provide enhanced and more varied habitats for wildlife than currently exists. It is considered that on balance the need for the improved safety of the circuit outweighs the potential harm to the current biodiversity of the site, particularly if the neutral grassland can be relocated successfully and the application is, therefore, recommended for approval subject to appropriate conditions.

**RECOMMENDATION:- That subject to no significant additional objections being received by the end of the consultation period expiring on 17 February 2009 the Director of Planning and Community Services be granted delegated powers to issue planning permission subject to the following conditions:-**

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

Having regard to the character, appearance and biodiversity of the site, 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 the proposal is in keeping with the existing uses of the adjacent site; will enhance the character and appearance of the countryside and biodiversity within the site; and will not have an adverse effect on the amenities of the occupiers of nearby dwellings or highway safety.

Hinckley & Bosworth Borough Council Local Development Framework Core Strategy (2009):- Policies 13 & 23.

Hinckley & Bosworth Borough Council Local Plan (2001):- BE1, NE5, NE7, NE12, NE14 & T5.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drawing Nos. 678/05; 678/01; 678/02a; 678/03a and 678/04a received by the Local Planning Authority on 4th December 2009.
- 3 Notwithstanding the submitted details, no development shall take place within the site until full details of soft landscaping 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) planting plans
  - (iii) written specifications
  - (iv) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
  - (v) implementation programme.
- 4 Prior to any development commencing on site, details of the type and location of bat boxes, bird boxes and log piles 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.
- 5 Before any development is commenced on the site, including site works of any description, each of the trees indicated by numbers T2, T3, T4, T10 - T13 inclusive and T24 - 26 inclusive shall be securely fenced off for the duration of the development by protective fencing on a scaffolding framework in accordance with B. S. 5837 erected in a circle round each tree in accordance with the Root Protection Areas indicated on the amended Tree Protection Plan received by the Local Planning Authority on 1st February 2010. Within the areas so fenced off, the existing ground level shall be neither raised nor lowered, and no materials, equipment, machinery or temporary buildings or surplus soil shall be placed or stored thereon.
- 6 No development shall commence on site, including site works of any description, until the species-rich grassland identified in the revised Biodiversity Survey by Curious Ecologists (dated 28th January 2010) has been trans-located in accordance with a method statement that 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.

- 7 The development hereby approved shall only be carried out between the hours of 8.30am and 4.30pm Mondays to Fridays and at no other time.
- 8 The route to and from the site of all traffic associated with the development hereby permitted shall be as detailed in the letter from the agent dated 31st January 2010 and shall not pass through the village of Kirkby Mallory.
- 9 Deliveries of materials to the site shall be limited to a maximum number of 50 in any one day. A record of all vehicle movements to the site associated with this development shall be kept and made available upon request by the Local Planning Authority.
- 10 Before development commences details of a traffic management scheme at the proposed Barwell Lane crossing shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be maintained and operational for the duration of the development hereby permitted.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To define the permission.
- 3 To enhance the appearance and biodiversity of the site and ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policies NE5 and NE12 of the adopted Hinckley & Bosworth Local Plan and Planning Policy Statement 9: Biodiversity and Geological Conservation.
- 4 To enhance the biodiversity of the site and provide additional wildlife habitat in accordance with Planning Policy Statement 9 (Biodiversity and Geological Conservation).
- 5 To ensure that proper steps are taken to safeguard the trees and hedgerows within and around the site during the course of development to accord with policies NE5 and NE12 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 9: Biodiversity and Geological Conservation.
- 6 To compensate for the loss of a Biodiversity Action Plan priority habitat, in accordance with Planning Policy Statement 9: Biodiversity and Geological Conservation and policy NE7 of the adopted Hinckley and Bosworth Local Plan.
- 7 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 8 To safeguard amenities of the residents of the village and in the interests of highway safety to accord with policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 9 To safeguard amenities of the residents of the village and in the interests of highway safety to accord with policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 10 In the interests of road safety to accord with policy BE1 and T5 of the Hinckley & Bosworth Local Plan.

### Notes to Applicant:-

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

**Contact Officer:-** Richard Wright Ext 5894

**Item:** 08

**Reference:** 10/00013/C

**Applicant:** Mallory Park (Motorsport) Ltd

**Location:** Mallory Park Church Road Kirkby Mallory

**Proposal:** MALLORY PARK (MOTORSPORT) LTD. - TIPPING OF INERT WASTE TO MEET SAFETY REQUIREMENTS FOR EXTRA RUN-OFF AREA - (County Council Identity Number 2010/C177/04)

### Introduction:-

This application is a County Matter whereby Leicestershire County Council is the determining planning authority. The Borough Council is a consultee and the County Council requests the observations of the Borough Council on the application.

The application seeks permission for the tipping of approximately 37,760 cubic metres of inert waste materials to meet safety requirements for an extra run-off area to be created on the outside of Gerard' bend at the southern end of Mallory Park Race Circuit in Kirkby Mallory. A full planning application (ref no. 09/00950/FUL) in respect of this proposal has also been submitted to Hinckley and Bosworth Borough Council and is reported as a separate item in this agenda.

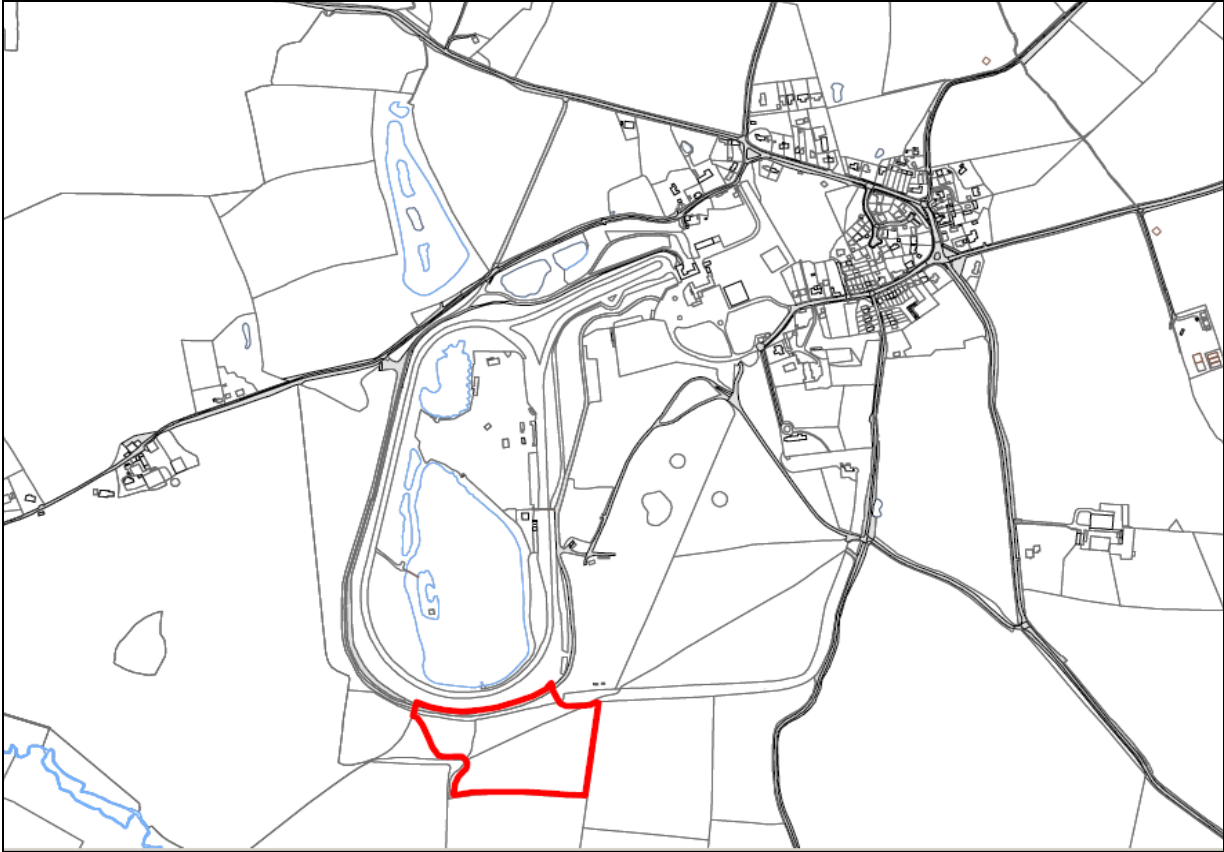
The application specifies that the waste will be topsoil and subsoil from local sites with an average daily volume of 1000 tons per day being delivered over a period of approximately 15 to 25 weeks between 8.00am and 4.30 pm Mondays to Fridays only. The sources of the soil will be checked before being delivered to site and measures will be taken to confirm that the soil is not contaminated. The contractors will be managed by Mallory Park (Motorsports) Ltd with only one contractor allowed on site at any one time. A record of all firms delivering soil together with vehicles, delivery times and dates will be kept on site and open for inspection by the Environment Agency. The delivery and return route for the vehicles involved is

specified as being from the A47 along Shilton Road to Glebe Farm, left along the track over land owned by the applicant, across Barwell Lane and into Mallory Park to avoid vehicles entering the village.

**History:-**

Whilst there is a substantial planning history associated with the overall site, the most recent applications detailed below are the most relevant to this application.

08/00374/FUL	Re-Profiling of Land and Creation of New Earth Bund to Reduce Noise Pollution	Approved	15.09.08
06/01361/FUL	Re-Profiling of Land and Reduction of Noise Pollution	Approved	07.03.07



**Consultations:-**

All consultations on this application are carried out by the County Council.

**Policy:-**

Central Government Guidance

Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas sets out the Government's policies on development in rural areas. Paragraph 7 states that planning authorities should adopt a positive approach to proposals designed to improve the viability of

existing facilities that play an important role in sustaining village communities. Paragraph 15 seeks to protect and, where possible, enhance the quality and character of the countryside.

Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management sets out the Government's policy objectives on waste, with the overarching intention to protect human health and the environment by producing less waste and re-using it as a resource wherever possible.

#### Adopted Local Plan (2001)

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

Policy NE2 states that planning permission will not be granted for development that would be likely to cause material harm through pollution of the soil.

Policy NE5 states that the countryside will be protected for its own sake but that planning permission will be granted for development provided that it is important to the local economy and it does not have an adverse effect on the appearance or character of the landscape; will not generate traffic likely to impair road safety and is effectively screened by landscaping.

Policy NE14 requires the water quality and ecology of watercourses and groundwater resources to be protected.

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

#### **Appraisal:-**

The main considerations with regard to this application are the principle of the development and its impact on the environment, highway safety and neighbouring properties.

#### The Principle of Development

Whilst the application is for the tipping of inert waste on a site within the countryside, given that Mallory Park is a well established motorsports facility and given the aims of the proposal of improving safety standards of the track and securing the viability of the circuit to host certain motorsport events in the future, the principle of development in this location is considered to be acceptable in this case and to meet guidance in PPS7 and the criteria in policy NE5 of the adopted Local Plan.

Furthermore, PPS10 encourages the 're-use' of waste rather than mere disposal and therefore the application would contribute to this aim by re-using the inert waste materials from other local sites in a sustainable manner to form the run-off extension area.

#### Impact on the Environment

The inert nature of the proposed waste would be unlikely to have an adverse impact on the environment in respect of potential pollution and there are a number of controls available to the County Council as the determining authority on waste applications to ensure that the inert waste materials imported to the site have proper certification and verification and can be traced to their original source, as recommended by the Head of Community Services (Pollution) in a separate consultation response on this application.



### Highway Safety

The County Council as the determining planning authority will formally consult the Highway Authority on this proposal. The proposed routing of vehicles to and from the development to the wider highway network is considered to be generally acceptable, especially as there is an available access that avoids the need to travel through the village, as recommended by the Head of Community Services (Pollution) in a separate consultation response on this application, and temporary traffic management arrangements have been effectively used in the recent past on the same route.

### Impact on Neighbouring Properties

Keepers Cottage is the nearest residential property (approximately 100 metres) to the access from Barwell Lane. Whilst the proposed development has the potential to cause some disturbance in terms of noise from traffic movements, this would only be for a time limited period during the import of the materials and the application does not propose deliveries at unreasonable hours. The Head of Community Services (Pollution) considers that mitigation measures are available in the form of the use of covered loads and wheel washing facilities to prevent dust migration and negative impacts on the highway.

### Conclusion

The proposals are considered to be in line with the general principles of policy NE5 of the adopted Local Plan and Government guidance in PPS7 in respect of appropriate development in the countryside and in PPS10 for the re-use of waste materials for other purposes. The nature of the waste to be imported can be controlled to prevent adverse impacts on the environment and measures are available to mitigate adverse impacts on highway safety and neighbouring properties.

**RECOMMENDATION :- That the Leicestershire County Council be advised that Hinckley & Bosworth Borough Council has the following comments to make:-**

- 1 There is no objection to the proposed tipping of inert waste at the site for an extension to the safety run-off area subject to appropriate measures to control the types of waste being imported, the route taken to deliver waste to the site and appropriate mitigation measures to address any impact on highway safety on the local road network and neighbouring properties.

**Contact Officer:-** Richard Wright Ext 5894

**Item:** 09

**Reference:** 09/00995/COU

**Applicant:** Mr Paul Finney

**Location:** Land Heath Road Bagworth

**Proposal:** CHANGE OF USE OF LAND TO PRIVATE GYPSY SITE FOR FOUR CARAVANS

## **Introduction:-**

Planning permission is sought for the use of the land as a private gypsy caravan site for four caravans. The site consists of a static caravan sited parallel to the western boundary of the site, and three touring caravans, and a shed. A two metre fence screens the site from the Heath Lane and defines the access.

The site covers an area of 0.17 hectares and is located to the west of Heath Road, within the Parish of Bagworth. The site is located to the north of a sweeping bend in the road, with lakes to the south of the site. The site is boarded to the north by a wooded area forming part of Little Bagworth Recreational Ground and to the south the Royal Tigers Wood. Public footpaths crisscross open spaces to the west of the site. The site is located within a natural hollow within the rolling landscape.

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

Government Circular 1/2006 published February 2006 and post dating the appeal, placed upon Local Authorities a responsibility to provide adequate sites to meet gypsy and traveller need in their area. Following this the applicant submitted a planning application (reference 06/00281/COU) to allow him and his family to occupy the site for a temporary period which expired on the 31st August 2007. This application was granted to allow the Borough Council to prepare a Gypsy and Traveller Accommodation Assessment. This work has now been undertaken and the Council are now in the process of preparing the Site Allocations Development Plan Document (DPD) which will form part of the Local Development Framework (LDF). This document will allocate land for use as gypsy and traveller sites.

In 2006 consent was granted for an extension to the gypsy and traveller site at Garlands Lane, Bagworth to provide an extra 5 pitches. This was granted in the expectation of providing Mr Finney with a permanent site within the same area and so providing continuity with services used by the family in the locality. However, a personal disagreement prevented this from occurring.

## **History:-**

09/00207/TEMP	Private gypsy caravan site for four caravans temporary for 3 years	Refused	06.05.09
06/00281/COU	Change of use of land for four private gypsy caravans (temporary permission)	Approved	21.06.06
03/01363/COU	Change of use of land to gypsy caravan site for one family comprising of three caravans stationing of portable building, formation of hard standing areas and erection of fencing	Refused	28.01.04

Appeal Dismissed and enforcement notice upheld with amendments

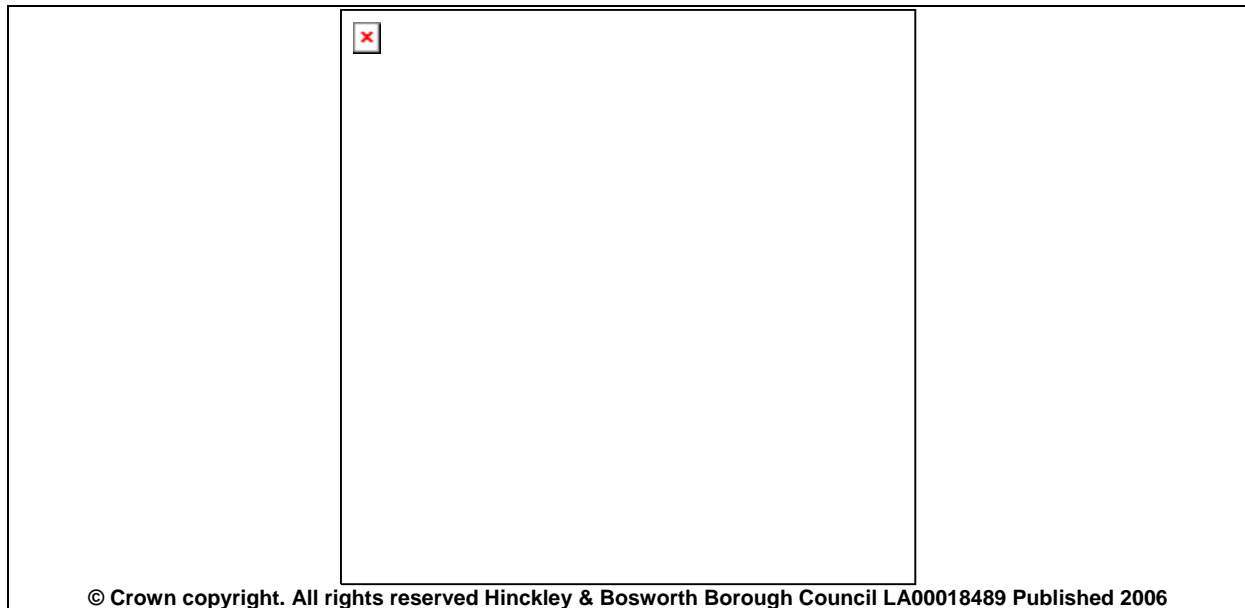
06.01.05

90/00429/4

Gypsy caravan site

Refused

25.11.90



#### Consultations:-

- The National Forest Company have questioned the location of an isolated new residential development in an area that has a growing recreational focus. It is important to assess the visual, landscape impact of the development. If approved the site should be effectively landscaped so it blends with and relates to its setting.
- Director of Highways, Transportation and Waste Management (Highways)- Have objected to the proposal on the grounds that the proposal could lead to an increase in traffic turning using an access on to an unrestricted Class III, unlit road, without appropriate visibility or street lighting creating a danger to users of the highway.
- Director of Community Services (Ecology) – The application triggers Trigger F of Leicester, Leicestershire and Rutland Biodiversity trigger list only if the amount of hard standing increases.
- Head of Community Services (Pollution)- Provision needs to be made for the disposal of surface water.
- Head of Community Services (Land Drainage)- Surface water should be discharged to a soakaway or natural watercourse and any sewage treatment plant proposals require the consent of the Environment Agency.
- Travellers Sites and Liaison Officer- Confirms that the families that will live on the site fall under the definition of a Gypsy for the purpose of the planning circular 01/2006, and gives other information regarding the needs of the family and further information about the policy background.

Site notice was displayed and neighbours notified.

2 letters of objection / support have been received raising the following concerns:-

- a) There is a dangerous access to the site
- b) Environmental objection as the plan is too close to several lakes
- c) Bagworth does not have the infrastructure (shops, doctors, school, pub) to support additional travellers
- d) Bagworth has a caravan site at every access to the village.

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

Bagworth Parish Council.

### **Policy:-**

#### Central Government Guidance

Circular 01/2006- Planning for Gypsy and Traveller Caravan Sites- Provides information on how the Local Planning Authority should balance the issues surrounding Gypsy and Traveller sites including where temporary permissions are acceptable, integration with the local settled community and good practice guidance.

#### Regional Policy

East Midlands Regional Spatial Strategy (RSS)- Sets the vision for the East Midlands Region providing overarching policies to provide a consistent approach to planning across the region. With regard to gypsy and traveller sites to accord with the RSS Local Authorities are required to identify land for additional pitch provision based on clear evidenced assessment of need.

#### Local Policy

##### Local Development Framework- Core Strategy

Policy 18: Provision of Sites for Gypsies, Travellers and Travelling Show People states that the council will allocate land for 42 residential pitches, and planning permission for sites will be granted where certain criteria are met including siting adjacent to the settlement boundary of any Key Rural Centre or Rural Village or the site is located within a reasonable distance of local services and has safe highway access.

Policy 21: National Forest supports development that contributes to the delivery of the National Forest Strategy providing that the scale of development is appropriately related to its setting within the forest, The development respects the character and appearance of the wider countryside and the development does not affect the existing facilities of the wider countryside.

#### Local Plan

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

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

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

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

### **Appraisal:-**

The main considerations with regards to this application are the effect on the character and appearance of the countryside; on highway safety; the suitability for use as a gypsy site; the need for accommodation; and the personal circumstances of the applicant. These issues were addressed at the 2005 appeal.

The status of the applicant as a gypsy was confirmed in the Planning Inspectors decision letter and is not in dispute.

### Character and Appearance of the Countryside

The site is located within a valley with land rising on all sides. From the north views of the site are restricted by mature planting within Little Bagworth Recreational Ground, and from the south a bund has been increased in height shielding views of the vans from this direction. The only significant public views of the site will be available from public footpaths to the west of the site. The applicant has proposed increased planting to the bund and to the front of the fence that defines the access, to help blend the development with the surrounding area. As the area is characterised by areas of planting that have matured since the first application was refused, it is considered that dense landscape screening blends with the character of the area and would not look out of place. The bund blends with the muted landscape colours it is seen against and as it does not break the skyline, it is not considered to dominate the landscape.

The temporary application refused in 2009 (09/00207/TEMP) was refused in part on the visual harm to the character and appearance of the countryside. Since the application the bund has been increased, providing effective screening to the site and additional planting proposed to the boundaries which can be secured by condition.

Within the dismissed appeal the Inspector considered that a landscaping condition would not overcome the significant concerns he had about the impact of the development on the countryside due to the time the landscaping would take to mature. Archived photographs within the 2003 file demonstrate how significantly the landscaping around the site has matured in the years the site has been occupied. Views of the development have been significantly restricted, reducing the impact on the character and appearance of the proposal on the countryside.

Given the above it is no longer considered that a reason for refusal can be maintained on the grounds that the proposal would be detrimental to the character and appearance of the countryside.

### Highway Safety

Access to the site is off an unlit Class III road within an area subject to the national speed limit. Within 150m of the access the road bends to the east restricting views of oncoming traffic. To the north the road is straight and good visibility is achieved in this direction. The County Highway Authority have objected to the proposal stating that if approved the

development would result in additional highway manoeuvres in a location that would create an additional source of danger to road users. It is therefore considered that the proposal is contrary to the objectives of Policy T5 of the adopted Local Plan.

#### Suitability as a Gypsy site

Policy 18 of the Core Strategy seeks to permit sites for Gypsy and Travellers subject to compliance with a number of criteria. This seeks that sites are located either adjacent to existing settlements or located within a 'reasonable' distance.

The application site at Heath Lane is located outside the settlement boundary approximately 1 km from the centre of Bagworth, which does not have a local shop or school. Additional facilities can be found within the centres of Thornton (3km), Barlestone (5km), Nailstone (5km) and Newbold Verdon (5km). These are considered to be reasonable distances especially with regard to paragraph 64 - 66 of Circular 01/2006 which considers other factors such as integration into the local services and not only transport mode and distance from services. The application concerns one extended family that have lived on the site for a number of years during which time the children have attended local schools, and grandchildren are registered with local GP surgeries. The applicant's wife is also employed locally. It is therefore considered that services are available within a reasonable distance and the applicant and his family are integrated into that service network. It is therefore considered that the site is located within a reasonable distance of existing settlements.

Criterion 4 of Policy 18 requires the site to have a safe access and provision for parking and turning. As stated above Leicestershire County Council as the highway authority have objected to the proposal. The application fails to meet this criteria.

Criterion 5 concerns assimilation into the surrounding area and is discussed above. Criterion 6 requires development to be appropriate to the scale of the nearest settlement. This is a small site, for a single family. It is therefore considered appropriate to the scale of Bagworth, complying with this point.

Due to the distance between the site and the nearest residential property, it is not anticipated that the proposal would result in noise and disturbance to these residents.

Criterion 8 refers to providing a safe and healthy environment for residents. This point derived from paragraph 3.3 of 'Designing Gypsy and Traveller Sites; A Good Practice Guide' which stated 'sites should not be situated near refuse sites, industrial processes or other hazardous places'. There are no hazardous places close enough to detrimentally affect the health or safety of the proposed residents of the site.

It is therefore considered that the application complies with all criteria of Policy 18 with the exception of Highway safety. It is therefore considered that the application should be refused.

#### Need for Accommodation

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

An application for change of use of land to a gypsy caravan site for one family comprising of three caravans, stationing of portable building, formation of hard standing areas and erection of fencing in 2005 was dismissed at appeal with the Inspector supporting the Local Authority's view that the encampment had a detrimental effect on the visual appearance of the countryside and an unacceptable access.

Following the appeal decision the Government published Circular 01/2006 which put an obligation on the Local Authority to provide adequate sites to accommodate the gypsy and traveller community. An application in 2006 was granted for a temporary period to allow a Gypsy and Traveller Accommodation Assessment to be undertaken. This document then fed into the East Midlands Spatial Strategy which was adopted in March 2009 and requires 26 permanent sites for gypsy and travellers within the Borough up to 2012 with a further 16 before 2016. From May 2007 to January 2010 only 3 pitches have been granted taking the figure down to 23 to be provided by 2012. If planning permission were to be granted for this site it would be counted towards the requirement set out in the Core Strategy and East Midlands Spatial Strategy.

This planning application is premature to the Site Allocations and Generic Development Control Policies DPD that would enable a comprehensive review of land within the Borough to ensure the most suitable sites are identified borough wide.

Given the strong objection received on highway grounds and that this was supported by the Inspector in 2005, it is not considered that in this instance the need outweighs the objection from the Highway Authority.

#### Other Issues

Objections have been received on environmental grounds that the site is too close to a lake increasing the potential for pollution. The site has an adequate drainage system which was confirmed within the 2006 application. Concerns have also been expressed at the number of travellers sites around Bagworth, however this is not a material consideration that would influence the determination of this application.

#### Conclusion

Since the previous applications, increasing the bund and natural growth of the vegetation around the site has softened the impact of the site to such an extent that it is considered by officers that an objection based upon harm to the countryside can not be sustained. However, Leicestershire County Council, as the local highways agency maintain their objection to the development on highway safety grounds.

This Authority has a requirement placed upon it to provide 23 pitches by 2012, to which this application would contribute. However it is not considered at this time that this need is significant enough to outweigh the concerns of the highway authority and therefore the application should be refused.

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

- 1 In the opinion of the Local Planning Authority the proposal would lead to an increase in traffic using an access onto an unrestricted (60mph) Class III (C5105) road where the horizontal alignment and the proximity of adjacent boundaries are such that the access lacks appropriate visibility for the speed of traffic on the main road and the turning manoeuvres would be an additional source of danger to road users and not in the interests of Highway safety and therefore contrary to Policy T5 of the adopted Hinckley and Bosworth Local Plan.

- 2 In the opinion of the Local Planning Authority The proposals if permitted could lead to an increase in turning traffic using and access onto an unrestricted (60mph) Class III (C5105) road where there is no street lighting, outside the limits of the built up area, where the turning manoeuvres would not be expected, would be an additional source of danger to road users and not in the interests of highway safety and therefore contrary to Policy T5 of the adopted Hinckley and Bosworth Local Plan.

**Notes to Applicant:-**

- 1 List of plans used in the determination of this application:-  
Layout Plan received 21.12.09, Site location plan (undated)

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



**PLANNING COMMITTEE – 16 FEBRUARY 2010**

**REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**  
**RE: IMPROVING ENGAGEMENT BY STATUTORY AND NON STATUTORY**  
**CONSULTEES: CONSULTATION**

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**1. PURPOSE OF REPORT**

To advise Members of, and to seek Members agreement on the appended consultation response on the proposed changes regarding Improving Engagement by Statutory and Non-Statutory Consultees, issued by the Department of Communities and Local Government in December 2009.

**2. RECOMMENDATION**

That Members:

- i) note the content of the report; and
- ii) agree the appended consultation response.

**3. BACKGROUND TO THE REPORT**

3.1 This consultation paper sets out the Government's proposals for changes to the arrangements for consultation of statutory and non-statutory consultees on planning applications. The proposals represent the Government's response to a recommendation of the Killian Pretty Review of the planning application process.

3.2 The Killian Pretty Review identified four key problems in the way consultation on planning applications currently works: (i) a lack of clarity about who is a consultee; (ii) a lack of clarity on the role of consultees in the planning application process; (iii) problems of over consultation; and (iv) poor quality of responses. Killian Pretty Recommendation 9 was primarily directed at Government, and can therefore only be implemented through Government action.

3.3 It recommended that Government should clarify and improve the process for consulting on applications so that it is clearer which organisations need to be consulted, when they must be consulted and why, what response is required, and how the response should be taken into account in the decision by the local planning authority.

3.4 The policy objectives of this review are:

- to improve the way nationally identified consultees (both statutory and non-statutory) engage with the decision making process for planning applications;
- to reduce occurrences of unnecessary consultation;

- to improve information on and engagement between nationally identified consultees;
- to provide a clearer and more comprehensive understanding of the performance of statutory consultees

3.5 The policy will be reviewed in three years using data on a number of consultations collected from annual returns from statutory consultees.

3.6 Who are nationally defined consultees?

Statutory consultees: are organisations and bodies, defined by statute, who must be consulted on relevant planning applications. Key organisations include Environment Agency, Natural England, English Heritage and the Highways Agency. Other bodies include local highway and local planning authorities (in relation to some forms of development in adjoining areas) and organisations with very specific interests, such as the Theatres Trust.

Non-statutory consultees: are organisations and bodies, identified in national planning policy, who should be consulted on relevant planning applications. These include some bodies who are also statutory consultees (for example English Heritage and English Nature) and others such as the Police Architectural Liaison Officers.

3.7 Summary of Proposed Changes:

- To establish clearly what are the obligations and expectations that go with the role of statutory consultee, through a new Government policy statement and a voluntary code of practice;
- How best to facilitate the consultation process;
- Changes to the types of application that some statutory consultees are consulted on, having regard to new rigorous criteria;
- To encourage a greater e-enablement of consultations associated with planning applications. A new dedicated site has been proposed on the Planning Portal to provide much more comprehensive information about national consultation requirements and how to best ensure effective engagement with individual bodies;
- To monitor performance more effectively. Most statutory consultees must report annually on performance to the Secretary of State. It is proposed that those statutory consultees should publish this performance information on their own websites so information about their performance is more widely available and a summary table will be published each year on the performance of all the statutory consultees, operating nationally, who are required to produce an annual report.

3.8 Overview of Proposed Changes:

Updated revised national Policy on statutory and non-statutory consultation

3.9 Effective engagement is a key element of the Development Management approach throughout every stage of the process from pre-application discussion to implementation of development.

- 3.10 To ensure efficient and effective engagement by statutory and non-statutory consultees in the application stage of the process, it is important that all aspects of the consultation are clear, timely and proportionate, including the process of:
- defining what consultation is necessary
  - undertaking consultation and responding to consultation; and
  - any discussions about planning conditions or planning obligation:
- 3.11 In order for consultees to comment effectively local planning authorities should:
- use e-communications wherever possible
  - send information promptly
  - be explicit about why they are consulting on a particular application
  - provide all necessary information to the consultee to enable it to give a substantive reply; and
  - identify the timescale for a response
- 3.12 Where consultation is required for nationally identified bodies, local planning authorities should clearly identify the specific regulation or national policy requirement which has triggered the request for comments. Where a consultee is routinely consulted on a large number of applications, they should take steps to develop an approach to consultation which is clear and proportionate.
- 3.13 In most cases, the Town and Country Planning (General Development Procedure) Order 1995 (GDPO) provides that statutory consultees should be given at least 21 days' notice to submit their comments. Local planning authorities should clearly set out the timescale for responses to other consultation requests. Subject to any specific legal requirements to the contrary, there is no obligation to delay an application beyond 21 days to await comments. Further, the amount of time needed for a consultee to respond on a planning application is likely to be reduced if a potential developer has already sought advice of relevant statutory and non-statutory consultees before submitting an application.
- 3.14 In order to provide a substantive response to consultation within 21 days, it is essential for statutory consultees to have all the relevant information relating to the application, that the internal procedures for commenting on planning applications are in place, and that they have the resources available to engage in pre application discussion and provide comments. If the response is to be delayed for any reason, the consultee should contact the Local Planning Authority as soon as possible and clarify what steps are being taken to address the point of delay.
- 3.15 Where advice is provided the consultee should:
- explain the basis for the advice, which should be supported by evidence where appropriate, so that where this advice directly impacts on the subsequent decision made by a local planning authority, the basis for decision is transparent;

- not seek to control matters that are dealt with by other legislation;
- be clear about the nature of their response by differentiating and identifying their comments in one or more of the following categories:
- fundamental concern
- substantive concern
- material consideration

The same principles should also apply for non-statutory consultees.

- 3.16 A consultee may advise that certain conditions should be attached, or obligations sought in connection with the grant of planning permission. In such cases the consultee should explain why this is being proposed. If the local planning authority considers that the conditions or obligations proposed should not be imposed, this should be justified.
- 3.17 Local planning authorities should take into account all consultation responses, alongside other material considerations in determining a planning application. Once a decision has been issued, consultees who have responded should be notified and informed of how to view the decision.

Draft code of practice on statutory consultation

- 3.18 It is proposed to encourage both statutory consultees and local planning authorities to adopt a new standard code of practice on statutory consultation. The code brings together a number of principles, processes and practices which will improve how statutory consultees engage with the planning system, and sets out what local planning authorities and statutory consultees can expect from one another. Although the code is specifically directed at statutory consultees, it is strongly encouraged that all consultees adopt it. Further there will be increased emphasis on monitoring, and evidence collected will be used to evaluate the impact of the Government's proposals as set out in the new policy statement and code of practice, and will be used as an evidence base for future reviews of the consultation arrangements of existing statutory consultees.
- 3.19 There are 17 requirements of the Code of Practice for statutory consultees, including the requirement to provide pre-application advice within a timely manner, to respond to all planning application consultations within 21 days, to use an electronic consultation system where available, to support any advice provided with evidence, and where concern is raised, to advise of solutions to overcome this.
- 3.20 The aim of the Code is to ensure that consultees signing up to it commit to achieving high levels of performance in terms of responding to requests for comments at both the pre-application and application stage of the process.
- 3.21 There are 11 requirements for local planning authorities who are signatories to the code, these include: ensuring that developers are aware at pre-application stage of the need to engage relevant consultees, consult in accordance with statutory requirements, send comprehensive planning application information relevant to the interest of the consultee, within two days of the validation of the application, or within a pre arranged time-scale,

use an electronic consultation system, clearly indicate the end of the consultation period, notify the statutory consultee when a decision is made.

#### Review of existing arrangements for consultation

- 3.22 A key element of the Killian Pretty recommendation was to review current arrangements for statutory consultation. Killian Pretty recommended, and what has been undertaken, is a more comprehensive review of whether the existing statutory arrangements for consultation could be streamlined and simplified.
- 3.23 In conducting this review it is considered that the current arrangements should have regard to the following:
- Is there a clear legislative or planning policy basis for consultation?
  - Would a failure to consult lead to harm to interests of acknowledged Importance?
  - Is there no more effective method of achieving the same legislative or policy outcome?
  - Is the type, scale and location of development to be consulted upon clearly specified to avoid unnecessary consultation?
- 3.24 The review has been focused on those consultation requirements that generate the largest number of consultation requests, such as key statutory consultees including the Environment Agency, Natural England and the Highways Agency.
- 3.25 The review identified a number of instances where unnecessary consultation can be eliminated. Given that a key purpose of the review is to streamline arrangements for consultation and reduce the amount of consultation, a rigorous approach has been adopted to test whether any extension in the amount of statutory consultation is necessary. In the light of this review, a number of instances have also been identified where it is proposed to add or expand the definition of developments that are covered by statutory consultation provisions.
- 3.26 Non-statutory consultees include those where consultation is recommended in national government guidance. As with statutory consultation, it is required that consultation recommended at a national level is fully justified and clearly defined, with the appropriate commitment of resources. An important element of the streamlining of PPS/PPGs, as recommended within the Killian Pretty review was to review and where possible, reduce or simplify the recommendations for consultation with stakeholders set out in national guidance.

#### Further measures to increase engagement by statutory and non-statutory consultees

- 3.27 A range of measures are available to improve consultation arrangements in the planning application process, including: the provision of clearer and more consistent advice from consultees, better information, improved links between local planning authorities and consultees – sharing of good practice, greater

use of e-consultation and the award of costs in the event of unreasonable behavior.

3.28 While some statutory consultees clearly convey the strength of any concerns they may have, a far more consistent, transparent and helpful approach is needed. Therefore it is proposed that as part of the new policy on consultation, where statutory consultees wish to provide advice, it should be clearly identified within one of the following categories:

- fundamental concern: so significant that no reasonable action is likely to address the concern, for example, where a development may harm an area of acknowledged international importance
- substantive concern: a significant concern which might be overcome with a change to the scheme, or the imposition of a planning condition
- material consideration: an important issue that the local planning authority is advised to take into account in determining the application.

3.29 Killian Pretty found that many of the problems associated with consultation were due to a lack of clear information over when consultees needed to be consulted. In response to this, the Planning Portal has developed a web-based resource, which is intended to provide a 'first stop' for all those involved in consultation on planning applications.

3.30 A further theme to emerge throughout the work of Killian Pretty were examples of good practice which, if adopted more widely, could improve performance and consistency. In order to encourage greater take up of good practice, the following steps are recommended:

- a dedicated best practice section on the new Planning Portal; and
- regional networks to encourage regional surgeries between key statutory consultees and local planning authorities.

3.31 In order to facilitate the more rapid and efficient exchange of planning applications and responses between local planning authorities and consultees, the e-Consultation Hub has been developed by the Planning Portal.

3.32 The award of costs has also been recommended, to penalise unreasonable behavior on the part of statutory consultees.

Proposals for improved monitoring of performance of statutory consultees

3.33 Section 54 of the Planning and Compulsory Purchase Act 2004 requires most statutory consultees to provide a response to consultation, and introduced a requirement for most statutory consultees to produce an annual report. At present, the annual report is only published to the Secretary of State.

3.34 Killian Pretty recommended that there should also be a requirement for statutory consultees to publish their annual returns on their websites. In light of this analysis of responses and the recommendations made by Killian

Pretty, a number of changes to the monitoring of performance have been suggested:

- from July 2010, all statutory consultees are required to publish an annual report on their website
- from July 2010 Communities and Local Government (CLG) will publish annually a list of all statutory consultees who have submitted an annual report that year and a list of those consultees that have not
- from July 2010 CLG will publish a summary table of performance of all organisations operating nationally
- a commitment on the part of statutory consultees, in signing up to the code of practice, to set and keep under review targets for performance in handling requests for comments at both pre-application and application stage of the process and to publish their annual report on their website
- CLG will continue to monitor the performance of statutory consultees, and if necessary, will review what further steps could be taken to address poor performance.

### 3.35 The Sectors and Groups Affected

- local planning authorities will be affected both in their role in consulting on and determining planning applications, and in their role as consultees for some applications in neighbouring areas
- statutory and non-statutory consultees
- applicants for planning permission, particularly developers of major schemes

### 3.36 Summary of Costs and Benefits

- increase in number of applications needing consultation arising from the amendments to criteria which the Environment Agency and Highways Agency need to be consulted on;
- decrease in number of applications needing consultation arising from the improvements to the engagement of nationally defined statutory consultees. This should lead to greater clarity over which consultees should be consulted in particular circumstances and reduce instances of consultation. In addition, there will be a decrease in consultations due to specific amendments to the GDPO which will reduce unnecessary consultations with neighboring LPA's.
- increased efficiency and effectiveness of the consultation process should lead to reduced delays in the planning process for developers.

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

4.1 There may be some increased costs if there are more bodies to consult, however, the general aim of the document is to reduce the number of consultees – so in theory costs should be reduced.

4.2 The Consultation document states the Authority would need to appoint a Compliance Officer. It is not known at this stage if this will require an additional officer post or the role will be incorporated into an existing post. There is currently no budgetary provision for an additional post.

## 5. **LEGAL IMPLICATIONS**

5.1 Legal Implications will be reported as a late item.

## 6. **CORPORATE PLAN IMPLICATIONS**

6.1 This document contributes to Strategic Aim 4 of the Corporate Plan.

## 7. **CONSULTATION**

7.1 The appended response is on behalf of this Authority. Neighboring Authorities and other agencies can respond independently should they wish.

## 8. **RISK IMPLICATIONS**

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

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

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

1. May be recruitment and retention problems as the consultation paper suggests that a Compliance officer is appointed, however there is currently no money in the budget for an additional post. This could in turn inhibit delivery of the aims.
  2. There is a reliance on third parties to deliver/partly deliver objectives.
  3. There will be technological risks associated with new technology, may be problems associated with some consultees having inadequate technology and not being able to keep up with the pace of change.
  4. There would be an increased reliance on electronic systems and there would be problems if the system failed.
2. Assess the risks identified using the corporate assessment criteria for likelihood and impact detailed in the Risk Management Strategy to determine risk levels;
    - Risk one achieved a score of 7, rendering it a high risk
    - Risk two achieved a score of 2, rendering it medium risk
    - Risk three achieved a score of 2, rendering it medium risk
    - Risk four achieved a score of 1, rendering it low risk
  3. Record significant risks (ie those that remain red after accounting for current mitigating actions and require treatment – Net Red risks) in the box below.



Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
restrictions on local government funding could limit scope for appointment of compliance officer which would have implications on delivery of this policy, and corporate and strategic aims.		

9. **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

- impact on Parish Councils: there may be additional impacts, for as these are consultees in the planning application process, they will have to sign up to the code of practice and comply with its requirements.
- Ensuring services are accessible to all: as the aim is to deliver via e-Consultation all the relevant information must be available online.

10. **CORPORATE IMPLICATIONS**

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

- |                                 |                              |
|---------------------------------|------------------------------|
| - Community Safety Implications | None relating to this report |
| - Environmental Implications    | None relating to this report |
| - ICT Implications              | None relating to this report |
| - Asset Management Implications | None relating to this report |
| - Human Resources Implications  | None relating to this report |
| - Planning Implications         | Addressed in the report      |
| - Voluntary Sector [VAHB]       | None relating to this report |

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Background Papers: Improving engagement by statutory and non-statutory consultees

Appendix 1: Proposed Consultation Response.

Contact Officer: Eleanor Shaw – Area Planning Officer 5691

## Improving Engagement by Statutory and Non-Statutory Consultees

To: Communities and Local Government  
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Zone 1 A/1  
London  
SW1E 5DU

StatCons@communities.gsi.gov.uk

The response of:

**Hinckley & Bosworth  
Borough Council**  
*A Borough to be proud of*



Consultation Response:

Q1 Do you agree with the policy principles guiding the statutory and non-statutory consultation process?

Yes it seems reasonable that there is a review of the current consultation process, considering the outcomes of the Killian Pretty review. There is a sound basis.

Q2 Does the draft policy statement provide a suitable policy framework for statutory and non-statutory consultation?

Yes it is clear to follow and contains all the necessary stages and is comprehensive. The suggestions of paragraph 24 are particularly welcomed. There is concern regarding paragraph 12, if it is determined that a change should be made the necessary resources should be made available to ensure consultation advice is provided. This paragraph seems to read that resources will be considered and will determine whether a consultation change is forthcoming.

Q3 Are any of the proposed policies too prescriptive?

Point 3 paragraph 14 – it is considered too cumbersome a task as LPAs' consultation letters are standardized. Such a change would require specific letters to be produced. Paragraph 14, point 4, all the necessary information would be available on the LPA website.

Paragraph 15, this request may take additional time and delay the process; it would require currently standardised letters to be altered for each consultation.

Paragraph 16 point 3, this is not necessary as all submitted documents are displayed on the LPAs website and therefore the consultee can inspect the relevant documents, however to do this they must be clearly labelled on the LPA website.

Paragraph 29 is considered onerous. If a consultee wishes to know the outcome of an application, the decision will be available on the LPA website. The initial consultation letter (electronic) could advise when it is likely that the decision would be available and where it can be viewed.

Q4 Are there any important policy omissions?

No

### Part 3 Code of Practice

Q5 a. Are the provisions of the Code in respect of statutory consultees workable and proportionate?

Yes

b. Are any requirements unreasonable, and if so, please explain why?

Point 11, pg 20; feel that a time scale is required for this, for there may not be time to secure the changes required prior to the application expiring, in reality.

Point 13, pg21, not considered necessary if the code is adhered to there should be no need to develop a locally bespoke solution.

Point 15, pg 21, funding a compliance officer is likely to be problematic.

Point 16, pg 21, due to the current economic climate it is unlikely that the funds will be available to be set aside to deal with forthcoming development proposals and applications.

c. Are there any requirements missing, and if so, please explain why?

No

Q6 Point 17 of the Code for statutory consultees, seeks to ensure that there is a strong commitment to achieving and maintaining high levels of performance. How might this element of the Code be strengthened, whilst recognising that current levels of performance by statutory consultees varies considerably and we want to encourage all statutory consultees to sign up to the Code without delay?

Could more fully explain that monitoring would highlight existing problems, which could ultimately result in improvements to the process, to the benefit of all involved. Good performance could be rewarded with incentives or penalties introduced for poor performance.

Q7 a. Are the provisions of the Code in respect of local planning authorities workable and proportionate?

Point 8 refers to a compliance officer, this is likely to require a new appointment which due to lack of funding is unlikely to be possible.

b. Are any requirements unreasonable, and if so, please explain why?

Point 2, currently this is problematic and developers are advised to contact consultees direct. This should perhaps only relate to major applications so it does not have so much impact upon resources.

Point 4, all planning application information is available on the Council website as such there is no need to send information to consultee

Point 6, too onerous as consultation letters are standardised

Point 9, it is not considered necessary for the LPA to advise the consultee of the decision, for if they wish to see it would be available on the council's website. The initial consultation letter (electronic) could advise when it is likely that the decision would be available and where it can be viewed.

Point 10, it is not considered that there would be the funds available to appoint a compliance officer.

c. Are there any requirements missing, and if so, please explain why?

No

#### Part 4 Existing arrangements for consultation

Q8 Do you agree with the changes set out in Table A? If not, please specify what change is of concern and why?

Yes, they offer further clarity and tighten the scope for consultation.

Q9 Are there further changes that could cut down unnecessary consultation?

No

Q10 Do you agree that we should review national policy recommendations for consultation when we are updating the relevant policy?

Yes, it would then keep the process up to date and incremental changes are easier to adopt.

#### Part 5 Further measures to improve engagement

Q11 Do you agree that there should be greater clarity and consistency in the way statutory consultees provide advice on applications? Do you agree with approach we propose and the categories of advice we have identified?

Yes, it is agreed that further clarity and consistency is needed, in respect of how consultees provide advice on planning applications. The mechanism proposed would be advantageous and the categories are clear, however in respect of substantial concern, there may need to be a time limit imposed for responses, for if an amendment was required, sufficient time would be required to amend the application.

Q12 Do you support the development of a consultation information resource on the Planning Portal? Do you find the format of the information useful? Is there any additional information that should be provided on this site which would be particularly useful?

Yes, the consultation resource on the Planning Portal is useful as it would provide a one stop shop for all advice in respect of consultations.

Q13 Are there other ways, in addition to a new site on the Planning Portal, that we can encourage good practice? Are there other examples of good practice that should be included on the Planning Portal site?

Yes, the use of Consultee Access.

Q14 What are the main blockages preventing greater use of e-consultation between local planning authorities and statutory consultees? Are there simple and cost effective ways that the greater use of e-consultation could be encouraged?

Purchasing of a connector to the back office system for e-consultation hub. Its capabilities of local consultees ie parishes and the availability of equipment.

Q15 Should any changes be made to Circular 03/2009 to further clarify the award of costs regime in relation to statutory consultees? If so, what changes are necessary, and why?

Yes, Para D7 of the circular still considers that the LPA is liable for costs when they have requested a statutory consultee to provide technical or expert witness at the inquiry/hearing. Often statutory consultees object to applications and recommend refusal and after refusal of the application they negotiate with the developer or change their stance when the decision is appealed. This authority often enquires whether the statutory consultee would defend the refusal at appeal and underwrite

necessary costs before refusal. But a change within the Circular would make them more accountable and would result in better consultation responses.

#### Part 6 Improved Monitoring

Q16 Do you agree with these measures to improve the monitoring of the performance of statutory consultees?

Yes as it will aid identification of problems and will ensure that quality consultation responses are provided.

Q17 Are there any further measures which would strengthen the monitoring of performance?

Maybe LPA's could name and shame those consultees who continually provide poor or inconsistent advice. Good performance could be rewarded with incentives or penalties introduced for poor performance.

#### Part 7 Impact Assessment

Q18 Local planning authorities, statutory consultees and applicants: do you agree with the assumptions used in the IA evidence base (Annex B) to calculate the costs and benefits of these new proposals?

Partially, but they are only assumptions which are limited. It is not considered that the productivity of staff employed in submitting applications would be affected due to a delayed decision. In respect of current costs on applicants, the sample size was small, thus limiting its validity. The assumptions in relation to costs on LPA's are not considered valid. It cannot be assumed that a planner making a decision on a consultation would be more senior – it would be dependant upon the type of development under consideration. Further, in respect of the time taken, this is also very dependable on the type of application under consideration. In respect of highways consultations, the assumption that highways are consulted on all major and minor applications is incorrect. They are generally not consulted on all minor applications. Whilst it is considered that the Code of Practice will increase the numbers of major applications determined within 13 weeks, the code will not eradicate the problem completely, for consultees are not the sole reason why major applications are delayed, quite often the issues relate to Section 106 Agreements.

Q19 Is there any evidence which you would like to submit to challenge the assumptions outlined in the impact assessment?

No

Q20 Are there other options that can be suggested which would bring about the Government's objectives?

Costs to the applicant and time could be reduced if applicants developed their schemes in line with design guidance, SPGs/SPDs and in line with local and national requirements. This would reduce the likelihood of amended schemes being requested as a result of the development not being in accordance with specific guidance of individual consultees. However in order to achieve this, the access to the relevant information would need to be improved. In addition regular workshops could be held with major/regular local developers to ensure that they are fully aware of the standard requirements of consultees, in order for their schemes to be developed in accordance with these requirements. In the long term this should also save time and money and improve the quality of applications. In order to increase the likelihood of consultees responding within 21 days, it is imperative that they have

all the information required and that they are aware of their impact on the decision making process. A forum could be held between local planning authorities and consultees in order for both to establish one another's difficulties and identify ways in which the process could be locally improved and tailored to an area's requirements.

**PLANNING COMMITTEE – 16 FEBRUARY 2010**

**REPORT OF THE DIRECTOR OF COMMUNITY AND PLANNING SERVICES**  
**RE: IMPROVING THE USE AND DISCHARGE OF PLANNING CONDITIONS:**  
**CONSULTATION**

---

**1. PURPOSE OF REPORT**

To advise Members of, and to seek Members agreement on the appended consultation response relating to improving the use and discharge of planning conditions, issued by the Department of Communities and Local Government (CLG) in December 2009.

**2. RECOMMENDATION**

That Members:

- (i) note the content of the report, and
- (ii) agree the appended consultation response.

**3. BACKGROUND TO THE REPORT**

The Government has issued a document entitled 'Improving the Use and Discharge of Planning Conditions', it is currently out to public consultation which will expire on 19 March 2010.

This consultation sets out the Government's response to Recommendation 6 of the Killian Pretty Review, which urged the Government to comprehensively improve the approach to planning conditions to ensure that conditions are only imposed when justified, and to ensure that the processes for discharging conditions are made clearer and faster.

The two key elements of the proposals are updated policy on the use of planning conditions, and a package of measures to improve their discharge. There is also new policy text on the fees that Local Planning Authorities (LPAs) can charge for the discharging of conditions and clarification on current policy.

**4. KILLIAN PRETTY REVIEW**

Making the planning system more effective, so that it works better from the start of the pre application stage until the discharge of the final planning conditions, was a key theme of the Killian Pretty Review. It identified the discharging of planning conditions as being a particularly problematic stage in the planning application process, with evidence that there is:

- inconsistency in the scope and use of conditions;
- no clear system for discharging conditions or recording actions; and
- an average of eight pre-commencement conditions attached to each planning permission, though there can be far more.

Many stakeholders believe an increasing number of conditions are now attached to planning permissions. A number of contributory factors have been identified, including:

- lack of engagement at the pre application stage;
- pressure on local planning authorities to issue decisions quickly, because of the time targets regime, resulting in a lack of time to resolve all issues;
- preference on the part of applicants to leave matters of detail until the principle of development has been agreed;
- local planning authorities choosing to minimise the risk of missing out important details by taking a 'belt-and-braces' approach to the use of conditions;
- the increasing complexity and inclusive nature of the planning process; and
- specialist conditions routinely requested by statutory consultees and local authority in house experts.

The effects of increasing the use of conditions, and the breadth of issues that they can address, has impacts at the discharge of conditions stage, when it can lead to delays to the start of development and additional demands on local planning authority resources. This problem is compounded by inconsistencies in the use and scope of conditions and the lack of a clear system for discharging conditions or recording outcomes, as identified by Killian Pretty case study research.

Recommendation 6 of the Killian Pretty Review urged the Government to comprehensively improve the approach to planning conditions to ensure that conditions are only imposed when justified, and to ensure that the processes for discharging conditions are made clearer and faster. It also proposed a range of measures designed to result in a need for fewer conditions, reduce demand on local planning authority resources and reduce delays associated with the discharge of conditions. The recommendation is in line with others contained with the Review relating to matters such as pre-application discussions, Section 106 Agreements and widening permitted development.

In response, the Government commissioned White Young Green Planning and Design to prepare a report and identify preferred options which now form the basis for this consultation.

## **5. The Proposed Changes**

In summary, the consultation paper seeks views on the following which are considered to offer the greatest potential for making the discharging of conditions clearer, fairer and more efficient for all parties. The document contains key principles in relation to the use of planning conditions, the use of Section 106 Agreements and on planning related fees.

1. discussion of conditions to be a key component of pre-applications engagement
2. structuring of decision notices
3. sharing draft decision notices for major applications with applicants before decisions are taken



4. shortening the time limits for LPAs to determine applications made for consent, agreement or approval required by a condition attached to a planning permission
5. a planning services key performance indicator to include the use and discharging of conditions
6. a fast-track conditions appeals service
7. developer to notify LPA prior to starting development
8. developer to display decision notices and conditions on site
9. default approval for applications made for consent, agreement, or approval required by a condition attached to a grant of planning permission

Measures 7, 8 and 9 would require primary legislation.

These proposals are explained further later in the report.

## **10. The New Policy on Planning Conditions**

Current policy on the use of planning conditions is set out in Circular 11/95. The new policy:

- retains the six tests for planning conditions
- reminds authorities of the need to assess conditions against these tests
- reinforces the need to avoid certain types of conditions (for example, conditions requiring a payment or other consideration in return for a grant of planning permission) and
- advises on the need to proceed with caution in relation to others, such as those that withdraw permitted development rights

The review of Circular 11/95 provides an opportunity to clarify the Government's approach to the use of conditions granting permission contingent on the completion of a Section 106 agreement. Implementation of major development projects, including regeneration initiatives, often involves the assembly of sites under multiple land ownerships. A comprehensive approach to such developments is preferable, particularly where a site-wide master plan has been approved. This can be best achieved through a single planning application covering the whole site. If the party applying for planning permission has not yet secured control of the entire site, they may not be in a position, at that time, to deliver a section 106 obligation covering the entire application site, or all of those parts of the application site which need to be bound by an obligation. It is not desirable, particularly in times of economic difficulty, to put at risk the delivery of important development projects, including major regeneration schemes, just because at the time of the grant of planning permission it is not possible to complete a Section 106 obligation binding all of the relevant parts of the application site. In such circumstances, it may be appropriate to grant permission subject to a condition precedent that must be satisfied before the development can be lawfully implemented. These types of conditions however need to be used in exceptional circumstances only, and must meet all of the six tests for conditions. The consultation paper sets out two options for policy wording on this matter.

## 11. Planning Related fees

Also included is policy text to replace paragraphs 123 to 131 of Circular 04/2008 – *Planning-related fees*. This clarifies the current position, which is that Local Planning Authorities can charge fees for:

- a. written confirmation of consent, agreement or approval required by a condition attached to a planning application (i.e. for the discharge of conditions) and/or
- b. written confirmation that one or more of the conditions imposed on a grant of planning permission have been complied with (i.e. for confirmation of the discharge of conditions).

## 12. Policy Annex

The consultation includes a draft policy annex on the use of conditions. In its final form the annex will replace previous circulars and advice. The approach described reflects the Government's expectation that local planning authorities will be rigorous in ensuring that all conditions used meet the key tests, the number of conditions used is minimised, and unnecessary conditions are avoided. It also confirms how the powers available to local planning authorities to charge fees for the discharging of conditions are intended to be used.

Conditions may only be imposed within the powers available. Section 70(l)(a) of the Act enables the local planning authority in granting planning permission to impose "*such conditions as they think fit*". Section 72(l)(a) makes clear that the local planning authority may impose conditions regulating the development or use of land under the control of the applicant even if it is outside the site which is the subject of the application, and that the local planning authority may grant planning permission for a specified period only. Section 73 of the Act provides for applications for planning permission to develop land without complying with conditions previously imposed on a planning permission. Section 73A of the Act provides, among other things, for retrospective planning applications to be made in respect of development which has been carried out without complying with one or more of the planning conditions to which it was subject.

If used properly, conditions can enhance the quality of a development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The objectives of planning, however, are best served when this power is exercised in such a way that conditions are clearly seen to be fair, reasonable and practicable. It is essential that the operation of the planning system should command public confidence. The sensitive use of conditions can improve development management and enhance that confidence. But the use of conditions in an unreasonable way, so that it proves impracticable or inexpedient to comply with them or enforce them, will damage such confidence and should be avoided. Unless the permission otherwise provides, planning permission runs with the land and any conditions imposed on the permission will bind successors in title.

## 13. Discharge of Conditions

Part 3 of the Consultation deals with proposed measures to improve the discharge of conditions. Changes already introduced mean that requests to discharge planning conditions are now made on the 'application for approval of details reserved by condition' standard application form, and that local planning

authorities can apply a fee. This applies to all requests to discharge conditions regardless of when the planning permission was granted.

#### **14. Pre-application Advice**

It is considered that effective pre-application engagement can yield a number of benefits in terms of the potential use and discharge of planning conditions. First, pre-application discussions may lessen the need for planning conditions, as the parties can agree to deal with matters at the determination of the application stage, rather than making them subject to condition. Second, discussions about possible conditions can help applicants further develop or refine their proposals and supporting information for the application, which may remove the need for a condition or make the framing of a condition simpler. Third, such discussions may help reveal issues that could have a significant impact on the development or the prospects of achieving a satisfactory planning permission, at an early stage. Given the increasing prevalence of pre application discussions, and other work underway to improve their effectiveness, it is not considered that this proposal should be onerous for either party.

#### **15. Structuring Decision Notices**

Decision notices currently follow a basic framework including key details of a development (e.g. site address, reference, description of development) followed by conditions and reasons. Conditions attached to a decision notice do not currently, necessarily, appear in any particular order, excepting that a time limiting condition commonly appears first. The Killian Pretty Review considered that it would be easier for applicants and third parties to understand the terms of any conditions if they were grouped by type on the decision notice. Planning conditions generally fall into one of four types:

- the standard (time limit) condition
- pre commencement conditions (those that need action pre-commencement in order to implement the development lawfully);
- pre-occupation of site/stage conditions and
- regulatory conditions i.e. those affecting the use of the development and that need monitoring after the development becomes operational (often imposed to protect amenity or other issues but not normally requiring any direct or specific action by applicants).

Due to the potential need to update existing software, it is accepted that there may be a period of adjustment for local planning authorities. However, information from local planning authority software suppliers indicates that it will be possible to adjust current software packages to cater for this change. It is expected that all local planning authorities should be able to implement this measure by the end of 2011.

#### **16. Sharing Draft Decision Notices**

Both the Killian Pretty Review and the subsequent research undertaken by White Young Green supported the introduction of a scheme for local planning authorities to produce and share with the applicant a draft decision notice, including a list of proposed conditions, a number of days prior to the formal

determination of the application. It was considered that such a proposal would allow an opportunity for other parties, principally the applicant, to consider and comment on whether the conditions proposed are appropriate in nature, extent and content, and that unnecessary, inappropriate or unreasonable conditions are avoided. White Young Green considered that of all the measures they considered, this was the one most likely to reduce the number of planning conditions attached to planning permissions. If such a measure were to be introduced, there are a number of practical considerations which would need to be addressed:

- What types of application should be covered by this measure? Killian Pretty and White Young Green both focused on major applications, although it was suggested by White Young Green that it should be open for applicants for both minor and major applications to request a draft notice
- How much advance notice should be given before determination of the application? Killian Pretty proposed that a list of draft conditions should be produced 10 days before the application is determined. White Young Green suggested five days, having regard to the existing requirement that all committee reports must be made available five days in advance of the committee, which enables third parties to register a wish to speak on the relevant item.
- Who should be informed about the draft decision notice and how? Clearly the applicant will want to have an opportunity to comment, but should the council be required to formally notify them and what steps should be taken in relation to third parties?

The consultation document is mindful of the need to avoid imposing unduly onerous requirements on local planning authorities or unnecessarily lengthening the decision-making process. For these reasons it is proposed that a scheme of advance notification of a draft decision notice with the following key characteristics:

- it applies in relation to major applications only
- the draft notice is made available five working days before determination
- the draft notice is made available on the council website and is forwarded to the applicant
- the local planning authority should take into account any representations received, however, the final decision on what conditions are imposed remains with the local planning authority.

## **17. Timescale for discharge of condition applications**

The timescales for dealing with requests for written confirmation of consent, agreement or confirmation required by a condition are currently set out in CLG Circular 04/2008. Local planning authorities have eight weeks from the date when they received the application, or any longer period agreed in writing by the applicant and the authority. The circular encourages local planning authorities to deal with these applications with 21 days. If the local planning authority has not provided confirmation that the condition has been complied with, or has not indicated that confirmation cannot be given, within 12 weeks of receiving the request, they must refund the fee. This longer timescale takes into account the possible need for the local planning authorities to seek advice from third parties.

In order to drive up performance on the discharge of conditions it is proposed that the time limits for determination of such applications be reduced to:

- four weeks for conditions on householder permissions
- six weeks in all other cases

It is also proposed to reduce the time period after which the applicant can have a refund of fees if the local planning authority has failed to discharge conditions. It is proposed to reduce this time limit in line with the above changes, i.e. from 12 weeks to four weeks for householder conditions and to six weeks in all other cases.

## **18. Performance Indicator**

The linking of national performance indicator (NI) 157 to the housing and planning delivery grant has been widely credited with recent improvements in the performance of local planning authorities in meeting their time targets for major, minor and other applications, by focussing planning departments' resources on the determination of planning applications. This has, however, often been at the expense of the pre application and post determination phases. Furthermore, respondents to the Killian Pretty Review 'call for solutions' were clear that the time-target based culture had exacerbated the tendency to impose numerous conditions.

An option would be to measure performance on the basis of the quality of the end-to-end service provided. This could embrace the use and discharge of conditions, for example by looking at whether any conditions used were clear and relevant to the development proposed, and whether the discharging stage was dealt with efficiently.

## **19. Fast Track Conditions Appeal Service**

A further measure could be the introduction of a fast-track conditions appeal service, provided by the Planning Inspectorate when dealing with appeals relating to conditions. This measure could apply to appeals in the following circumstances:

- appeal against a conditional grant of permission (i.e. against one or more of the conditions that have been imposed); or
- appeal against a refusal to vary conditions (i.e. refusal of a section 73 application to develop land without complying with a condition attached to a previous planning permission); or
- appeal against a refusal of any application for approval, consent or confirmation required by a condition.

## **20. Developer to notify Local Planning Authority prior to starting development**

The consultation proposes imposing a statutory requirement on those implementing a planning permission to provide the local planning authority with a commencement notice, in writing, stating the anticipated date of commencement of development. This will:

- place an onus on developers to make sure that all requirements of their planning consent have been met; and

- ensure that the local planning authority is aware of the commencement of development so that they can review their files to check that the necessary conditions have been discharged, and, where this is not the case, inform the developer before development commences.

It is considered that the introduction of such a measure should not introduce a significant additional burden on developers, as they are already normally required to notify the local planning authority of their intention to commence for building control and planning obligation purposes, and potentially in the future for CIL purposes. To ensure that the local planning authority are aware of when development commences, the developer implementing the planning permission would be required to submit a commencement notice before development commences. Parties not complying with this procedure could gain an unfair advantage. To dissuade such behaviour and any accompanying disputes over when development commenced, the local planning authority could be given enforcement powers to deal with any failure to submit a commencement notice.

## **21. Developer to display decision notice and conditions on site**

This measure, would, if introduced, require those implementing a planning permission to post on site, on public display, a copy of the relevant planning permission and all pre-commencement approvals required by condition. This measure is intended to help ensure pre-commencement conditions are fully discharged before work starts and to inform third parties about the approved development and the nature of any planning conditions imposed.

## **22. Default approval for applications made for consent, agreement or approval required by a condition attached to grant of planning permission**

This proposal would involve the introduction of a procedure where consent, agreement or approval required by a condition is deemed granted, by default, if the local planning authority does not respond to an application within a certain time period. It would operate in a similar manner to the 'prior approval' procedures which are available for certain types of development and which are, in essence, an intermediate planning tier between permitted development and full planning application. Under prior approval, consent is deemed granted if the local planning authority does not object within a given time-period. Prior approval procedures already exist for certain telecommunication or agricultural developments. Default approval for planning conditions would mean that the consent, agreement or approval required would be deemed granted if the local planning authority did not object within a certain time.

White Young Green research found this Killian Pretty proposal was strongly supported by developers, but was only supported by about a quarter of the local planning authorities who responded. The proposal would greatly improve the certainty for developers that they will have a decision by a certain date, though there may be a risk of more matters being refused where local planning authorities were unable to consider the matter within the timescale. A further risk is that, with such a process in place, local planning authorities may be less willing to deal with issues through a planning condition, thus increasing the amount of detailed information that must be submitted with the application.

## **23. FINANCIAL IMPLICATIONS (AB)**

If the current deadlines are reduced and performance indicators are introduced to measure this performance it could lead to staffing implications. This will be met from existing resources.

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

Set out in the report.

#### **25. CORPORATE PLAN IMPLICATIONS**

This document contributes to Strategic Aim 2 of the Corporate Plan.

#### **26. CONSULTATION**

The appended response is on behalf of this Authority. Neighbouring Authorities and other agencies can respond independently should they wish.

#### **27. RISK IMPLICATIONS**

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

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

#### **28. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

The proposed response has no direct impact on our community.

#### **29. 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 |

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Background Papers: Consultation Document 'Improving the use and discharge of planning conditions'.

Appendix 1: Proposed Consultation Response.

Contact Officer: Louise Forman – Area Planning Officer 5682

**Improving the Discharge and Use of Planning Conditions**

To: Planning Conditions Consultation  
 Communities and Local Government  
 Floor 1, Zone A2  
 Eland House  
 Bressenden Place  
 London  
 SW1 5DU

planningconditions@communities.gsi.gov.uk

The response of:

**Hinckley & Bosworth  
 Borough Council**  
*A Borough to be proud of*



Consultation Response:

CONSULTATION QUESTIONS	Y	N	Comment
1. Please provide your comments on the proposed new policy on the use of planning conditions, as set out in Part 2 of this document.			Support policy as it promotes good practice.
2 In policy CO18 in Part 2 of this document, Option A repeats the general principle established in Circular 11/95, that planning permission cannot be granted subject to a condition that the applicant enters into a planning obligation. Option B retains the general principle but provides additional policy guidance on the use of such conditions in exceptional circumstances, and on how they can be appropriately drafted. 2 (a) Which is the better policy approach to granting planning permission contingent to the completion of a s106 agreement? Option A or Option B? 2 (b) If you support Option B, do you agree with the 'exceptional circumstances' suggested, and is the additional policy interpretation guidance helpful?			2(a) Option B as LPAs are still monitored on their performance with regards to targets, Option A would either result in applications being refused or performance targets not being met especially on minor applications unless minor applications requiring a Section 106 agreement were removed from the 8 week targets. 2(b) The interpretive guidance is helpful
<b>Measure (1): Discussion of potential conditions to be a key component of pre application engagement</b> 3 Other than new policy references, are there other measures which could be used to encourage pre-application discussions, and including matters relating to the use of planning conditions within these discussions?			Promotes good practice but discussion on conditions at pre-application stage will be dependent on the amount of information available on a detailed scheme and the subsequent responses from consultees applicant.
<b>Measure (2) Structuring decision notices</b>	Y		Support, this is a measure that this Authority is actively in the process of



4 Do you agree we should commend the use of structured decision notices along the lines recommended above?		implementing.
5 If yes, what would be your preferred method of implementation? 5(a) Encourage LPAs to structure their decision notices as good practice? 5(b) Include the structuring of decision notices within policy as a specific requirement? 5(c) Make this a statutory requirement through an appropriate legislative change?		5(a) Promote good practice but should be at the discretion of each LPA. It would however promote continuity between different authorities resulting in a better customer service.
6 To which kinds of applications should this apply?		All decisions with conditions should be structured as proposed, but obviously, it is more important in relation to major and more complex schemes.
<p><b>Measure (3) Sharing draft decision notices for major applications with applicants before decisions are taken</b></p> <p>7 Do you agree that sharing draft decision notices with applicants in advance of making a decision (in the case of delegated applications) or of the planning committee meeting would help to ensure that conditions imposed accord with national policy and meet the six policy tests?</p>	N	Whilst this may be considered to be good in practice and provide a better customer service, there is concern that this measure has potential to reduce the amount of time to assess applications. The 8 week target is already tight such a measure would reduce the time period to 7 weeks essentially. In the case of committee meeting decisions, proposed conditions are included within the agenda/report to committee and are therefore publicly available prior to the application being determined. There would be no need for this to be forwarded to the applicant/agent as it would be available on the LPAs website.
8 If this measure is taken forward, do you believe this should be made a statutory requirement, rather than encouraged as good practice?	N	If taken forward, then it should be encouraged as good practice and not a statutory requirement due to the implications mentioned in answer to Q7
<p>9 If this requirement or recommendation were introduced, would the proposed five day timescale be reasonable and achievable?</p> <p>9 (a) If not, would that alternative proposal of 10 days be reasonable and achievable?</p> <p>9 (b) If not, what timescale do you think would be reasonable and achievable?</p>	N	<p>See comments above. If agreement cannot be reached prior to determination, the LPA would still impose the disputed condition(s) which the developer would then have the right to appeal. Quite often LPAs are still waiting for responses from consultees resulting in decisions not being reached until a day or so before the 8 week target date therefore the 5 day timescale would result in the application being determined out of time. If the application is going to committee 5 days would be achievable.</p> <p>(a) 10 days would be even more unachievable</p> <p>(b) Do not consider this is a measure</p>

		that should be taken forward on delegated decisions.
10 Besides the LPA and the applicant, should other parties be able to access and comment on the draft decision notice? In what circumstances would this be appropriate?		The LPA should retain control over the implementation of planning conditions. Involving other parties would impact further on the timescales LPAs have to meet and therefore would make the measure even more unachievable.
<b>Measure (4) Shortening the time limits for discharging conditions</b> 11 Do you agree that time limits for dealing with an application for written consent, agreement or confirmation required by a condition should be tightened?	Y	In principle. However, workloads may make it difficult for officers to meet additional and tighter deadlines. In addition, some conditions require consultation with statutory and non-statutory bodies, as they have no timescales to meet requests for comments on information submitted to discharge a condition is not prioritised by them and can result in a significant delay. If timescales are tightened, then measures should be put in place that require consultees to respond to requests within 14 to 21 days.
12 Do you think the time limits proposed here are reasonable and achievable, namely four weeks for applications related to householder development and six weeks for all other development?	Y	Refer to answer to Q11 regarding measures in for consultees to respond. It also depends upon how many conditions they are seeking to discharge within the application and the complexity of such conditions.
13 If not, what alternative limits would you suggest and why?		
14 Would you support an equivalent change to the timescales for decision on section 73 variations?	N	It is considered that the existing timescales for such applications should be retained. 6 weeks would not be sufficient time to process the application particularly when complex issues are involved.
15 Do you think that we should amend the Fees Regulations 2008 to require that where an application of the types listed above has not been determined within the relevant timescale the full fee should be refunded?	Y	However, this should only be applied if no response whatsoever has been provided. As such where LPAs are awaiting a third party response or there is a significant amount of information submitted to be considered a holding letter with projected timescale response should suffice to eliminate the need to return the fee.
<b>Measure (5) A planning services key performance indicator to include the use and discharging of conditions</b> 16 Do you agree that the performance of local planning authorities in handling applications to approve details required by a condition should be monitored and taken into account in a new performance indicator?	Y	But LPAs are already monitored on their performance for determining applications. Further competing targets, bearing in mind staffing levels, are likely to result in a poorer decision making service. In addition, meeting timescales when awaiting consultee response is not within the LPAs control.
17 Have you any specific suggestions	N	

about how best this matter could be monitored, in an efficient and effective way?		
<b>Measure (6) A fast-track conditions appeals service</b> 18 Do you think a conditions appeals service, as described, could work for the types of appeals proposed? If not what amendments do you suggest?	Y	But only if it does not result in additional work for the LPAs. The existing appeals system since being electronic and fast-track has resulting in a significant increase in officer time when compiling documents for the Inspectorate.
19 Other than those already suggested, are there any types of appeals which should be excluded from a fast-track conditions appeals service?		N
20 If refusal of section 73 applications were made eligible for the potential fast-track conditions appeal service, should those section 73 applications which only seek to vary approved plans be excluded?		Y
21 Third party involvement has been excluded from the proposed conditions appeals service as comments on the original application will have been taken into account when that application was determined, and reflected where appropriate in the conditions attached to it, and the initial consultation on that application will have referred to the fact that that this is the case and their representations will be taken into account in the event of any subsequent conditions-related appeals. Is this a reasonable assumption?	Y	Agree that third party representation is considered as part of the application process.
22 If third parties were to be included in the proposed conditions appeals service, how could this be managed effectively in order to ensure an appropriate balance between inclusiveness and efficiency?		The timescales on fast-track appeals are considered too tight to include third parties and such an approach would undoubtedly result in additional work for LPAs.
<b>Measure (7) Developer to notify LPA prior to starting development</b> 23 Should we seek legislative powers to require those implementing a permission to inform the LPA when they commence development?	Y	Such a measure would help with condition monitoring and help to avoid the need for enforcement later, subject to the correct level of staff being available  Other than enforcement powers being provided to LPAs, what would be the penalty to developers who do not comply?
24 If you agree this measure should be introduced: (i) how much, if any, advance notice should be given before works start; and (ii) should this requirement apply to major applications only, or all schemes?		It is considered more important for major schemes, however would benefit all schemes, suggest 21 days notice. However developers would need to be aware that if all pre-commencement conditions had not been discharged their commencement would have to be delayed.
<b>Measure (8) Developer to display</b>	Y	Measure would be good practice but it

<p><b>decision notices and conditions on site</b> 25 Should we seek legislative powers to require those implementing a permission to put up a notice displaying the planning permission and all pre commencement approvals required by condition?</p>		<p>could create a substantial burden purely in terms of checking that such a notice is displayed. Furthermore the display of such a notice could arouse public interest resulting in enquiries to the LPA for confirmation that conditions were being met.</p> <p>How would a penalty be imposed?</p>
<p>26 Should this requirement apply to major applications only, or all schemes?</p>		<p>If implemented, it would be best to concentrate on major schemes, however all schemes would benefit from the approach if it was logistically possible.</p>
<p>27 Are there further steps that should be taken to make information about decision notices and conditions publicly available?</p>	N	<p>Unnecessary, third parties are notified of decision and of how to view decision notice on LPA website.</p>
<p><b>Measure (9) Default approval for applications made for consent, agreement, or approval required by a condition attached to a grant of planning permission.</b> 28 Should we seek legislative powers to allow for default approval of applications required to discharge planning conditions?</p>	N	<p>Because there may be mitigating circumstances as to why a condition has not been discharged within the timescale and if the condition was properly imposed, it is important to ensure that it is satisfactorily dealt with.</p>
<p>29 If default approval were introduced, how much time would it be reasonable to give local planning authorities to consider such applications?</p>		<p>Suggest 8 weeks</p>
<p>30 Are there any matters that should not be subject to a default approval method?</p>		<p>See comment above.</p>
<p><b>Questions on consultation stage impact assessment (Part 6)</b> 31 Do you have any questions on the consultation stage impact assessment particularly the anticipated benefits for applicants?</p>		<p>It appears that assumptions have been made that LPAs can process these elements of the planning function quicker. However, with reduced capacity in LPAs and budget cuts across LA it is considered that tightening up such processes will have a significant impact on staff resources available.</p> <p>Undoubtedly the benefits to the applicant will be welcomed in the interests of a better service, but such is should be ensured that capacity is built into LPAs in order to provide this improved service.</p>

**PLANNING COMMITTEE – 16 FEBRUARY 2010**

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

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1. **PURPOSE OF REPORT**

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

2. **RECOMMENDATION**

That the report be noted.

3. **BACKGROUND TO THE REPORT**

3.1 Appeals Lodged

- 3.1.1 Appeal by Mr T Barton against the refusal of planning permission for the erection of one dwelling with integral garage (09/00703/FUL) at 23 Cherry Orchard, Higham-on-the-Hill. (Public Inquiry).

3.2 Appeals Determined

- 3.2.1 Appeals by Crest Nicholson Midland Ltd against the refusal of planning permissions under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which previous applications were granted on the following applications;

- 3.2.2 Appeal A- Against Condition 21 attached to 05/00615/FUL for the erection of ten commercial units states that 'No more than 2500 square meters 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 (09/00340/CONDIT)

Appeal B- Against Condition 13 attached to 07/01150/FUL for a mixed commercial development comprising B1, B2, B8 and sui generis uses stated No more that 2500 square metres of floorspace shall be occupied until the improvements shown on TPK Drawing No 12088/14 Revision B, attached to planning permission 99/00048/OUT, or such other similar schemes have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highways Agency and have thereafter been substantially completed (09/00343/CONDIT).

Both appeals relate to 391 Coventry Road, Hinckley

- 3.2.3 Since the appeals related to the same issues, they were considered together. The Inspector considered that the main issue for each appeal is whether the condition complies with all the tests within Circular 11/95: *The Use of Conditions in Planning Permissions*.

- 3.2.4 The works to which the disputed conditions apply are at Dodwells Roundabout. The Inspector considered the increase to the flow of traffic that would be attributable to the development of the appeal site, especially at peak times and how that would impact upon existing users of the highway in terms of increase in journey time. The impact of the development on the Longshoot was also considered by the Inspector, however he considered this to be an objection in principle at least until the projected Core Strategy Scheme, to provide a link between the southern part of the Long Shoot and Dodwells Roundabout, is completed.
- 3.2.5 The Inspector considered that the worst case scenario would see an increase in traffic flows through Dodwells Roundabout in 2019 of about 5% on the east bound approach and 6% on the west bound approach in the morning peak hour.
- 3.2.6 In taking an overview of the analysis and the worst case scenario, the Inspector considered that the projected increases were of limited value in assessing the effect of the development on traffic conditions at the roundabout, however they do give a useful indication of the level of importance to be attributed to the proposal in the overall consideration of traffic conditions. The projected increases do demonstrate the sensitivity of the network to what he considered to be rather modest changes of up to 6%. The evidence showed that the projected increase in base flow of 11% forecast in 2008 only materialised as a 3% increase including that from the residential development.
- 3.2.7 It was therefore concluded that the additional traffic from the development site would increase congestion onto local networks resulting in adverse impacts on the convenience of road users and associated impact on their safety. A means of addressing that potential was therefore considered necessary to any grant of planning permission.
- 3.2.8 In imposing the original condition in 1999, the financial contribution was split proportionately with the residential scheme on Coventry Road to reflect the flow of traffic each development would create. The residential scheme has not complied with the condition and at the time of the appeal there are questions regarding the enforceability of the scheme. Given this the whole of the cost of the works would fall upon the commercial scheme alone which would generate less than half of the traffic that justified the imposition of the condition in 1999. The Inspector therefore concluded that the conditions are not reasonably related to the effect of the development upon their surroundings and therefore fail the test within Circular 11/95.
- 3.2.9 The appellant has demonstrated that even without the contribution to Dodwells Roundabout the development may not be viable, this has added weight to the Inspectors view that the condition would be unduly onerous and fail to reflect Planning Policy Statement 4: Planning for Sustainable Economic Growth as well as failing the Circular 11/95 test of reasonableness and therefore does not comply with Policy IMP1 of the Hinckley and Bosworth Local Plan.

3.2.10 The Inspector concluded that although the condition was unreasonable in granting planning permission there needed to be some method to address the effects of the traffic it would generate. The appellants put forward two means through which this could be achieved, the first a low cost scheme that the Inspector considered would increase delays in the area. The second was a Unilateral Undertaking to provide £250,000 towards the cost of works to Dodwells Roundabout. The Inspector considered that in value this was equivalent to the financial burden anticipated when the condition was first imposed, and therefore would reasonably relate to the development, satisfying the tests of Circular 05/2005. The Inspector concluded that the appeals should be allowed and each of the two planning permissions granted without the inclusion of the disputed conditions.

3.2.11 There was no application for costs by either side

### **3.2.12 INSPECTORS DECISION** **Appeals Allowed (Public Inquiry)**

#### **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 The decision will be considered in relation to other applications in this area by the appellant. The Highways Agency's comments are not yet known.

#### **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 - 16 FEBRUARY 2010**

**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

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Background Papers:

Contact Officer: Simon Wood, extension 5692

## PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 05.02.10

### WR - WRITTEN REPRESENTATIONS

### IH - INFORMAL HEARING

### PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
	NC	09/00758/TPO	WR	Mr Gill	Rotherwood, Station Road, Desford	Awaiting start date	
10/00001/PP	LF	09/00703/FUL	WR	Mr T Barton	23 Cherry Orchard Estate Higham on the Hill	Start Date Statement of case Final Comments	11.01.10 22.02.10 15.03.10
09/00024/PP	RW	09/00660/FUL	PI	Crest Nicholson (Midlands) Ltd	Former Greyhound Stadium Nutts Lane Hinckley	Start Date Proof of Evidence Inquiry Date (2 days)	23.12.09 02.03.10 13&14.04.10
09/00023/CLD	DK	09/00802/CLU	WR	Mr & Mrs Davies	49 Wykin Road Hinckley	Start Date Awaiting Decision	27.11.09
09/00017/ENF	JC/ES	07/00031/BOC	PI	Mr P Godden	Land at Upper Grange Farm Ratby Lane Markfield	Start Date Statement of Case Public Inquiry (4 days) Temporarily Suspended	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	Start Date Awaiting Decision	05.11.09
09/00013/ENF	JH	09/00159/UNBLD	PI	Mr Robert Hodgetts	Land to the north of Bagworth Road Nailstone	Start Date Awaiting Decision	05.06.09

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

09/00019/COND	PM	09/00343/CONDIT	PI	Crest Nicholson (Midlands) Ltd	Land Adjacent to 391 Coventry Road Hinckley	<b>Allowed</b>	01.02.10
09/00018/COND	PM	09/00340/CONDIT	PI	Crest Nicholson (Midlands) Ltd	Land Adjacent to 391 Coventry Road Hinckley	<b>Allowed</b>	01.02.10

Rolling April/January

**Planning**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision		
					Allow	Spt	Dis	Allow	Spt	Dis
19	8	7	3	1	7	3	7	1		

**Enforcement**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn