

Date: 29 May 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, 8 JUNE 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**

**8 JUNE 2010**

**A G E N D A**

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 11 May attached marked 'P1'.

3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

To be advised of any additional items of business which the Chairman decides by reason of special circumstances shall be taken as matters of urgency at this meeting.

4. DECLARATIONS OF INTEREST

To receive verbally from members any disclosures which they are required to make in accordance with the Council's code of conduct or in pursuance of Section 106 of the Local Government Finance Act 1992. **This is in addition to the need for such disclosure to be also given when the relevant matter is reached on the Agenda.**

5. QUESTIONS AND PETITIONS

To hear any questions and to receive any petitions in accordance with Council Procedure Rules 10 and 11.

6. DECISIONS DELEGATED AT PREVIOUS MEETING

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

RESOLVED

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

Schedule of planning applications attached marked 'P2' (pages 1 – 50).

RESOLVED

8. APPEALS LODGED AND DETERMINED

Report of the Director of Community and Planning Services attached marked 'P3' (pages 51 – 53).

RESOLVED

9. APPEALS PROGRESS

Report of the Director of Community and Planning Services attached marked 'P4' (pages 54 – 56).

RESOLVED

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

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

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL**

**PLANNING COMMITTEE**

**11 MAY 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, Mrs A Hall, Mr P Hall, Mr K Morrell, Mr K Nichols, Mrs J Richards and Mr BE Sutton.

Officers in attendance: Mr P Metcalfe, Miss R Owen, Mr M Rice, Ms S Smith, Mr S Wood and Mr R Wright.

**532 APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Mr Boothby, Mr Gould, Mr O'Shea, Mr Ward and Ms Witherford with the substitution of Mr Cartwright for Mr O'Shea authorised in accordance with Council Procedure Rule 4.3.

**533 MINUTES (P71)**

Attention was drawn to the amendment to minute 489 in the late items. It was also highlighted that minute 493(b) should read 'Notwithstanding the officer's recommendation that the application be approved...' and it was also requested that the resolution refer to the granting of *temporary* planning permission. It was requested that reference to Mr Bown returning to the meeting (page 239) be removed.

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

**RESOLVED** – the minutes of the meeting held on 13 April 2010 be confirmed subject to the abovementioned amendments and signed by the Chairman.

**534 DECLARATIONS OF INTEREST**

No interests were declared at this stage.

**535 DECISIONS DELEGATED AT PREVIOUS MEETING**

The Head of Planning reported on the following applications which had been delegated at the meeting on 16 March and 13 April:

- (i) 09/00922/FUL & 09/00923/CON – it was reported that these decisions had been issued on 16 April;

- (ii) 10/00102/FUL – it was reported that the decision had been issued on 28 April.

536 LOCAL DEVELOPMENT FRAMEWORK: HINCKLEY TOWN CENTRE AREA ACTION PLAN DEVELOPMENT PLAN DOCUMENT (P73)

Members received a report which outlined plans to consult on the Hinckley Town Centre Area Action Plan proposed submission document. On the motion of Mrs Aldridge, seconded by Mr Morrell, it was

RESOLVED –

- (i) the undertaking of a six-week period of consultation during June and July be endorsed for approval by Council;
- (ii) the submission of the Hinckley Town Centre Area Action Plan to the Secretary of State following analysis of the representations received during the consultation period be supported.

537 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P72)

The Committee considered a schedule of planning applications, together with a list of late items, and the recommendations of the Deputy Chief Executive (Community Direction).

- (a) 09/00940/FUL – Demolition of bungalow, part of glasshouse and garden centre offices, change of use of existing garden centre warehouse to retail sales, erection of water tanks, fuel tanks and sewage treatment plant and formation of additional car parking and alterations to open sales area, Woodlands Nurseries, Ashby Road, Stapleton – The Garden Centre Group

Attention was drawn to the amended recommendation in the late items.

Mr Crooks left the meeting at 7.22pm and returned at 7.25pm.

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

RESOLVED – subject to no significant new material planning considerations being raised from those issues already considered within the report prior to the expiry of the consultation period ending on 21 May 2010 and resolution of the outstanding issue of the impact of the development on bats before 4 June 2010, the Deputy Chief Executive (Community Direction) be granted delegated powers to issue planning permission subject to the conditions contained in the officer's report and late items. Failure to resolve the outstanding issue by 4 June 2010 might result in the application being refused.

- (b) 09/01000/FUL – Siting of residential caravan for use as a dwelling, Land off Potters Marston Lane, Earl Shilton – Mr Neil Chapman

Notwithstanding the officer's recommendation that the application be refused, it was moved by Mr Sutton and seconded by Mr Cartwright that the application be approved for a temporary period of two years.

It was requested that voting upon this motion be recorded.

Mrs Aldridge, Mr Cartwright, Mr Hall, Mr Morrell and Mr Sutton voted FOR the motion (5);

Mr Mayne, Mr Inman, Mr Bannister, Mr Bown, Mr Crooks, Mrs Hall and Mr Nichols voted AGAINST the motion (7).

The motion was therefore declared LOST.

It was moved by Mr Bannister, seconded by Mrs Hall and

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

- (c) 10/00204/FUL – Erection of double garage and conversion of existing integral garage, 15 Shenton Lane, Dadlington – Mr Guy Stripp

Notwithstanding the officer's recommendation that the application be approved, it was moved by Mr Sutton and seconded by Mr Hall that the application be refused as it was not in keeping with the area.

It was requested that voting be recorded on this motion.

Mrs Aldridge, Mr Bown, Mr Cartwright, Mr Hall, Mr Morrell and Mr Sutton voted FOR the motion (6);

Mr Mayne, Mr Inman, Mr Bannister, Mr Crooks and Mrs Hall voted AGAINST the motion (5);

Mr Nichols abstained from voting.

The motion was therefore declared CARRIED.

RESOLVED – the application be refused on the grounds that it is not in keeping with the area.

- (d) 10/00207/FUL – Extensions and alterations to dwelling, 20 Hilary Crescent, Groby – Mr Gary Hawkins

Notwithstanding the officer's recommendation that delegated powers be granted to approve the application, it was moved by Mr Cartwright that the application be refused.

Upon the motion not being seconded, it was proposed by Mr Cartwright and seconded by Mr Sutton that the application be deferred for a site visit as they felt unable to make a decision without seeing the site.

It was requested that voting on this motion be recorded.

Mrs Aldridge, Mr Bannister, Mr Cartwright, Mr Crooks, Mr Morrell, Mr Nichols and Mr Sutton voted FOR the motion (7);

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

The motion was declared CARRIED.

RESOLVED – the application be deferred for a site visit.

Mr Inman left the meeting at 8.29pm.

- (e) 10/00241/FUL – Change of use from retail to hot food takeaway and retention of external extractor flue (retrospective), 102 Rugby Road, Hinckley – Mr Jogi Singh

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

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

- (f) 09/00901/OUT – Demolition of existing building for residential development with access and layout (outline), 96 Factory Road, Hinckley – Mr Bill Hood

Mr Inman returned to the meeting at 8.38pm.

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

RESOLVED – subject to no significant material observations being received by the end of the consultation period expiring on 6 May 2010, the Deputy Chief Executive (Community Direction) be granted delegated powers to grant planning permission for the development subject to the conditions contained in the officer's report and 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, highways improvements, civic amenity facilities and town centre infrastructure improvements. Failure to do so by 24 May 2010 might result in the application being refused.

Mrs Aldridge left the meeting at 8.41pm.

- (g) 10/00189/FUL – Extensions and alterations to dwelling, 51 Waterfall Way, Barwell – Mr Lyndon Lewis

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

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

Mrs Aldridge returned at 8.43pm.

- (h) 10/00202/EXT – Extension of time for extant planning permission 06/00445/FUL for change of use of first and second floors from industrial/office use to hotel including extensions and alterations to form first floor breakfast/diner, 18 Lancaster Road, Hinckley – The DRE Group Limited

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

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

- (i) 10/00195/DEEM – Residential development (reserved matters), Land adj Alexander Gardens, Hinckley – Hinckley & Bosworth Borough Council

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

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

- (j) 10/213/FUL – Conversion, extensions and alterations of buildings to form three dwellings, The Pool House, Newtown Linford Lane, Groby – Mr and Mrs Everson Crane

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

RESOLVED – subject to no significant additional objections being received before the end of the consultation period expiring on 18 May 2010, the Deputy Chief Executive (Community Direction) be granted delegated powers to issue planning permission subject to the conditions contained within the officer's report and late items.

- (k) 10/00214/LBC – Part demolition, extensions and alterations of buildings to form three dwellings, The Pool House, Newtown Linford Lane, Groby – Mr and Mrs Everson Crane

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

RESOLVED – subject to no significant additional objections being received before the end of the consultation period expiring on 18 May 2010, the Deputy Chief Executive (Community

Direction) be granted delegated powers to issue listed building consent subject to the conditions contained in the officer's report.

538 APPEALS LODGED AND DETERMINED (P74)

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

RESOLVED – the report be noted.

539 APPEALS – PROGRESS (P75)

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

RESOLVED – the report be noted.

540 MATTERS FROM WHICH THE PUBLIC MAY BE EXCLUDED

On the motion of Mr Crooks, seconded by Mr Sutton, 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.

541 PLANNING ENFORCEMENT ACTION (P76)

Members were provided with a periodic report on planning enforcement actions taken and were also updated on capacity issues in the Planning Enforcement team.

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

RESOLVED – the report be noted.

(The meeting closed at 9.07pm)



**REPORT P2**

**PLANNING COMMITTEE**

**8 June 2010**

**RECOMMENDATIONS OF DEPUTY CHIEF EXECUTIVE  
(COMMUNITY DIRECTION)**

**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:** 10/00162/FUL  
**Applicant:** Redrow Homes (Midlands) Ltd  
**Location:** Breconshire Hosiery Rossendale Road Earl Shilton Leicestershire  
**Proposal:** SUBSTITUTION OF HOUSE TYPES FOR PLOTS 8-10 AND 13-21.

**Introduction:-**

This is a full application that seeks planning permission for the substitution of house types within a previously approved residential development of 24 houses (Ref. No. 06/01406/FUL) located on Rossendale Road, Earl Shilton. The application relates to 12 plots (Plot Nos. 8 - 10 and 13 – 21) all of which are to the rear of those plots fronting Rossendale Road and back on to existing properties in Laburnum Drive, Highfield Street and Hollydene Crescent. The application proposes 3 x 2½ storey houses (Plots 19 - 21) and 9 X 2 storey houses (Plots 8 – 9 and 13 – 18) with a mix of 8 x three bedroomed houses and 4 x 2 bedroomed houses. Whilst the proposed house types have a different design to those already approved, there are no significant alterations to the layout and the total number of dwellings and car parking spaces remains as previously approved. The proposed designs incorporate traditional features to provide high quality street scenes and architectural interest to the development.

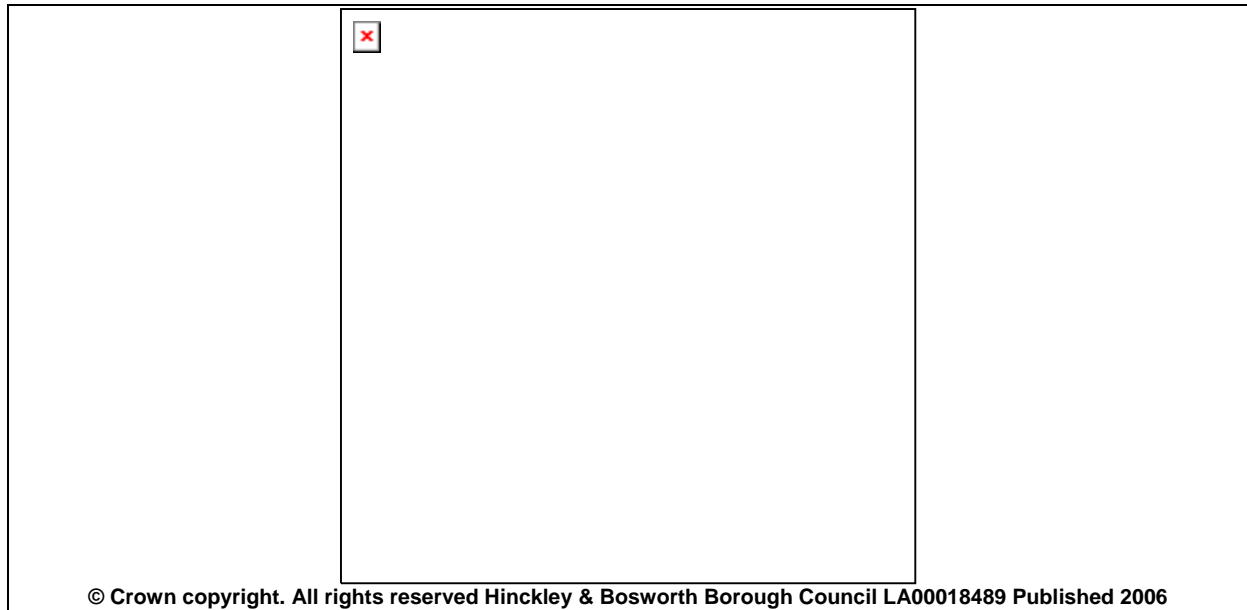
The site lies to the south west of Rossendale Road and is surrounded by other residential properties. There are commercial and industrial premises further to the north west on Rossendale Road. The former factory buildings that occupied the site have been demolished. The site has no substantial vegetation within it but mature planting exists in the rear gardens of properties backing onto the site from Hollydene Crescent and Laburnum Drive.

A Design and Access Statement has been submitted to support the application this confirms that the application involves only the substitution of house type designs and does not change access or layout of the site. The proposed house types include designs that are the same as those already approved under a previous house type substitution application for other plots on the site and are like for like substitutions in terms of storey heights, general massing and numbers of bedrooms to those previously approved.

A legal agreement in the form of a unilateral undertaking has been submitted with the application to link the application to the previously completed section 106 agreement for the previous planning permission to secure relevant developer contributions towards the provision and maintenance of various local infrastructure requirements.

**History:-**

09/00765/FUL	Substitution of House Types (12 Plots)	Approved	20.01.10
06/01406/FUL	Residential Development (24 Houses)	Approved	30.03.07



**Consultations:-**

No objections have been received from:-

Natural England  
Earl Shilton Town Council  
Head of Business Development and Street Scene Services.

No objections subject to conditions have been received from:-

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

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

Environment Agency  
Leicestershire Constabulary Crime Reduction Officer  
British Telecom  
Press Notice  
Site Notice  
Neighbours.

**Policy:-**

Central Government Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' 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' states in paragraph 12 that good design is fundamental to the development of high quality new housing.

### Local Policy

#### Hinckley and Bosworth Local Development Framework: Core Strategy (2009)

Policy 2 'Development in Earl Shilton' 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.

Policy 24 'Sustainable Design and Technology' now requires all development in Earl Shilton to meet a minimum of Code Level 3 of the Code for Sustainable Homes.

#### Hinckley and Bosworth Local Plan (2001)

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

The site is identified in policy EMP1(c) as an employment site but where alternative uses would be encouraged subject to appropriate design policies.

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; and incorporate landscaping to a high standard.

Policy NE2 'Pollution' 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 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 REC2 requires new residential development to provide outdoor play space for formal recreation.

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 principle of residential development on the site has already been established by the previous planning permission and the layout remains the same as previously approved. The main issues to consider in respect of this application are, therefore, the design and appearance of the proposed house types and their impact on the character and appearance of the wider development and the amenities of neighbouring properties; and other issues.

### Design and Appearance

The scale of the dwellings at 2½ and 2 storeys is in keeping with the remainder of the development and surrounding dwellings. The proposed house types are well proportioned and the designs include a number of features that add interest to the overall appearance of the dwellings e.g. canopy porches, cottage style windows to the front elevations, brick headers and cills and contrasting brick plinth and render detailing. The house types are like for like substitutions in terms of storey heights, general massing and numbers of bedrooms to those previously approved. The proposed two storey house type designs are the same as those already approved under the previous house type substitution application for other plots on the site.

The proposed house types would therefore contribute to and enhance the character and appearance of the wider development and street scene. The layout provides adequate private amenity space for each of the proposed dwellings. A number of standard conditions were included on the original planning permission requiring the submission of details for prior approval including external materials, ground and finished floor levels, boundary treatments and landscaping within the development. A condition linking this application to the conditions on the previous approval has been included in the recommendation to ensure these details are provided.

Amended plans have been received which include side elevation windows to the house types on plots 8, 10 and 19 to provide natural surveillance of side parking areas and add further interest to the elevations.

### Amenity of Neighbouring Properties

The proposed layout and house types provide adequate separation distances to existing surrounding dwellings and to other dwellings within the development. The mature vegetation that exists within the gardens of the properties backing onto the development in Hollydene Crescent and Laburnum Drive provides significant screening from the proposed development. It is anticipated that additional planting and boundary treatments will be provided where necessary and secured by condition. As a result the proposed development would not adversely affect the privacy or amenities of the occupiers of neighbouring properties from either overlooking or visual obtrusiveness.

### Highway Issues

The overall number of parking spaces within the development has not changed and each plot has been provided with two off-street spaces within the layout. The Highway Authority has

raised no objection subject to a number of conditions that were included on the original planning permission. A condition linking this application to the conditions on the previous approval has been included in the recommendation.

### Other Issues

The previously approved house types were not subject to a requirement for the inclusion of sustainable design measures in respect of the Code for Sustainable Homes and therefore as this application only seeks to amend the house types it is not considered reasonable to impose a requirement for such measures in this case. Furthermore, such measures would have additional financial implications for the developer which would not have been taken into account when assessing development costs of the site.

A unilateral legal agreement has been submitted with the application to link the development to the previously completed section 106 agreement for the site to secure developer contributions towards local infrastructure requirements in respect of libraries, civic amenity, health and public play and open space in line with policies IMP1, REC2 and REC3 of the adopted Local Plan and the Green Space Strategy and Audits of Provision.

### Conclusion

The design and appearance of the proposed house types would enhance the character and appearance of the overall development and provide attractive and interesting street scenes. The proposed development would not adversely affect the amenities of the occupiers of neighbouring properties or highway safety. A legal agreement has been submitted to secure developer contributions towards local infrastructure. The application is therefore recommended for approval subject to conditions.

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

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

Having regard to the pattern of existing development in the area, the previously approved development, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan.

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy:- Policy 2

Hinckley & Bosworth Borough Council Local Plan (2001) :- Policies BE1, NE2, NE12, NE14, IMP1, REC2, REC3 and 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: Location Plan at 1:1250 scale received by the Local Planning Authority on 2nd March 2010; Planning Layout Drg.No. 279-10; House Type and Garage Plans and Elevation Drawing Nos. 279-12, 279-13 and 279-16 received by the Local Planning Authority on 16th March 2010; Street Scene Drawing No. 279-17 (29th March); House Type Plans and Elevations Drawing Nos. 279-11A, 279-14A and 279-15A received by the Local Planning Authority on 14th April 2010.

- 3 This permission relates solely to the change in dwelling types on plot numbers 8 - 10 inclusive and 13 - 21 inclusive approved under planning permission reference number 06/01406/FUL dated 30th March 2007 and in all other respects shall be subject to the conditions imposed under that permission.

**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 define the terms of the permission and to ensure that the general requirements for the development of the site remain applicable.

**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 In relation to conditions 6 and 24 of planning permission No. 06/01406/FUL, a copy of which is attached to this decision notice, advice from Health and Environment Services is also attached which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.
- 6 The developer is advised that before development commences they will be required to enter into a suitable legal agreements with the Highway Authority for the off-site works (including a Traffic Restriction Order) and the adoption of roads under section 38 of the Highways Act 1980. The agreements will need to be signed and all surities and fees paid prior to commencement of development.

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

**Item:** 02

**Reference:** 10/00207/FUL

**Applicant:** Mr Gary Hawkins

**Location:** 20 Hilary Crescent Groby Leicester Leicestershire LE6 0BG

**Proposal:** EXTENSIONS AND ALTERATIONS TO DWELLING.

## **Introduction:-**

This application was deferred at the last Planning Committee meeting to enable Members to undertake a site visit.

Since the date of the previous Committee meeting, the applicant has submitted two letters of explanation and photographs of the surrounding area addressed to the Head of Planning and the Chairman of Planning Committee. These photographs will be available to view at the committee meeting on the 8 June 2010.

This is an amendment of the application 10/00047/FUL, which was withdrawn before determination earlier this year. The amended scheme proposes the erection of a pair of pitched roofed dormers to the front and a 1 ½ storey extension and dormer window to the rear. The scheme also proposes to hard surface the front garden to provide an additional parking space.

The application property comprises a run-down semi-detached rendered bungalow which is currently vacant. This is situated at the end of a cul-de-sac. To the front, the property is set off the highway by approximately 8 metre, with this land being sub-divided into garden and a driveway. To the eastern side of the property is a walkway which leads to the rear garden. There is a lean to conservatory which projects 2.4 metres from the rear of the property. The garden is enclosed by a 1.8 metre high close boarded fence that steps up with the ground level, which rises to the north east. There are a couple of mature trees within the garden and a greenhouse adjacent to the rear boundary. Further beyond the rear boundary is a strip of land owned by the applicant, on which there is a dilapidated single garage. This is to be demolished and will provide a further parking space. This land is accessed via Lawnwood Road.

Surrounding properties are predominantly bungalows, some detached and some, semi-detached. The adjoining semi has been extended to the rear; this extension projects approximately 2.5 metres along the common boundary. The property to the west comprises a detached hipped roofed bungalow, which has also been extended to the rear. This property is set off the common boundary by 1.5 metres. Properties to the rear of the site comprise both flats and houses, but are separated from the application site via the private driveway.

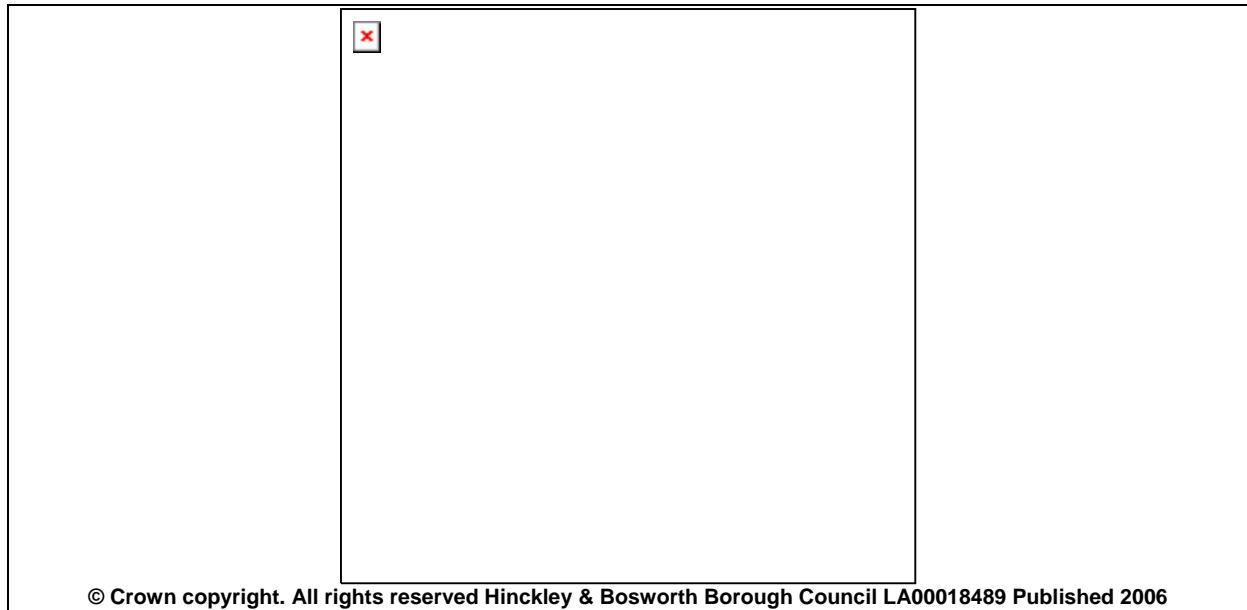
Since submission an amended plan has been received and has been subject to reconsultation. This illustrates a revised boundary line, because the original plan included area to the rear of the site which was not owned by the applicant.

The scheme has been amended since the consideration of the original application. A two-storey gable was originally proposed to the rear, which was to project 3 metres.

## **History:-**

10/00047/FUL	Extensions and Alterations to Dwelling	Withdrawn
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### **Consultations:-**

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

Groby Parish Council Objects to the application on the grounds that it is out of keeping with the street scene and that the car parking is unsuitable and does not comply with parking standards.

9 neighbour letters of objection have been received. These raise the following issues:-

- a) that the development is out of keeping with the application property and surrounding properties
- b) the development will be out of character with the area
- c) the development will have an adverse impact on the privacy of surrounding properties
- d) will block the access to the garages to the rear
- e) result in parking problems
- f) have concerns over construction traffic accessing the site
- g) and will overshadow neighbouring properties.
- h) over-development of the site,
- i) poor design,
- j) noise, dust and disturbance resultant of the development.

A letter of objection has been received from the Ward Member, this supports the letters received by neighbours and raises the following issues:-

- a) That the development is out of character with the area,
- b) The development will have an adverse impact on residential amenity,
- c) The development will have an adverse impact on the street scene,
- d) Parking issues, inadequate parking provision.

### **Policy:-**

Hinckley and Bosworth Local Plan 2001

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.

The adopted Supplementary Planning Document on House Extensions offers guidance on the design of extensions, to ensure they have no adverse impacts on the amenity of surrounding residents, on the character of the street scene and on highway safety, among other things. The guidance also contains specific criteria concerning the scale and size of side and rear extensions.

### **Appraisal:-**

The main issues in this application are the impacts of the proposal on the character of the street scene, the application property, residential amenity, and parking issues.

#### Street Scene, Residential Amenity and Design

Resultant of their design and position, the two pitched roofed dormers to the front of the property are considered in keeping and compatible with the scale of the property, and are comparable to those found on properties within the vicinity. Further; they add interest to this otherwise bland elevation. As no properties directly face the application property to the front, the proposed dormers will have no impacts in terms of overlooking.

The existing scheme has been amended significantly to that originally proposed. At ground floor the proposal will project 4m, and its mono-pitched roof will slope to just below the ridge of the main property. To provide first floor accommodation, a large single dormer is proposed.

Although the proposal is to the rear of the property, owing to the position of the property within the street scene, glimpses of the proposal may be visible from the left hand side of the turning head. However, because of the sloping roof design, views will be limited and impacts are not considered to be of detriment to the street scene.

To ensure that proposals are not overdominating, and that they do not have an adverse impact on light to neighbouring properties, the SPD on House Extensions suggests that at ground floor, proposals should not extend any further than 3m along a common boundary, and at first floor no more than 2m, unless material considerations indicate otherwise. In this case, in respect of loss of light and overshadowing, although the ground floor extension will project 4m along the common boundary, due to the length of the neighbouring extension; there will be only a 1.5m projection beyond this. Accordingly although some early morning sunlight will be lost and there will be an element of overshadowing, due to the marginal projection of the proposal past the rear building line of the adjoining property, the impacts are not considered material. The first floor proposal will have a projection of 2m, however this will be set off the common boundary by 1m, and thus is not considered to have any material impacts on loss of light. In respect of possible overbearing impacts, as the proposal will only project 1.5m beyond the rear building line of the adjoining property, and due to the fact that there is a 1.8m close boarded fence along the boundary, only a small element of the proposal will be visible from the adjoining property and thus the proposal is not considered over-dominating. In this regard the scheme is considered to be in accordance with the adopted Supplementary Planning Guidance on House Extensions.

In respect of overlooking, the first floor windows serving bedrooms to the rear of the property are not considered to result in any material impact on the privacy of surrounding properties,

due to their distance from the properties to the rear and the fact that they will not directly face any windows serving habitable rooms. Further, views from the side facing ground floor kitchen window will be obscured by the 1.8m high close boarded boundary fence beyond which is the blank elevation of the neighbouring property.

In respect of impacts on the character of the property, the footprint and scale of the proposal are large in comparison with the small scale of the application property, however this said, due to its design, and the fact that the proposal is situated to the rear of the property; the principal elevation of the property will not be compromised. Further, the development is not considered as overdevelopment of the plot as there is sufficient remaining amenity space for the size of property proposed.

### Highways

The garden to the front is to be hard surfaced with a permeable material, to provide an additional off road parking space. Accordingly, the total number of off road parking spaces provided will be 3, which is sufficient for a property proposing 5 bedrooms.

### Other Issues

In respect of the issues raised by neighbours concerning construction traffic, how these vehicles will access the site is not a material planning consideration. Disturbance from the development is considered temporary in nature and not grounds to refuse the scheme.

### Conclusion

Resultant of the amended design of the proposal, the scheme now appears more comparable and in scale with the principal property and is considered to have no adverse impacts on residential amenity in terms of over-dominance, loss of light or overlooking and does not compromise the character of the area.

### **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, layout and scale of the proposal there are considered no material impacts in terms of either visual or residential amenity, or on highway safety. Therefore the proposal is considered acceptable.

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials of the existing dwelling unless previously agreed in writing with the Local Planning Authority.
- 3 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Plan DEH 117 Revision E and Site Location Plan both received on the 30th April 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 of the adopted Hinckley & Bosworth Local Plan.
- 3 For the avoidance of doubt

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site [www.planningportal.gov.uk](http://www.planningportal.gov.uk).
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.

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

**Item:** 03

**Reference:** 10/00221/CONDIT

**Applicant:** North Warwickshire And Hinckley College

**Location:** Land Adj. Goddard Building Lower Bond Street Hinckley Leicestershire

**Proposal:** VARIATION OF CONDITION NO.24 OF PLANNING PERMISSION 09/00141/DEEM TO ALLOW A WIND TURBINE ON THE ROOF OF THE

## BUILDING

### Introduction:-

This is an application to make a material alteration to planning permission 09/00141/DEEM which allowed the redevelopment of the former Atkins factory site for a mixed use development comprising of a new college building and the change of use and conversion of the existing Goddard building for use as a creative industries centre including associated car parking and public realm improvement.

The application site is to the north of Lower Bond Street in Hinckley where development on the college building has recently commenced. To the south of the site is the Goddard building which is also undergoing works permitted under the permission above. Bounding the site to the north is the listed Holly Bush Inn and offices of Leicestershire County Council. To the east are residential properties facing on to Druid Street and to the west are residential properties facing Lower Bond Street.

Specifically the material alteration is sought for the variation of condition 24 which states:-

Notwithstanding the submitted plans this permission does not grant consent for the wind turbine shown on the roof of the college building.

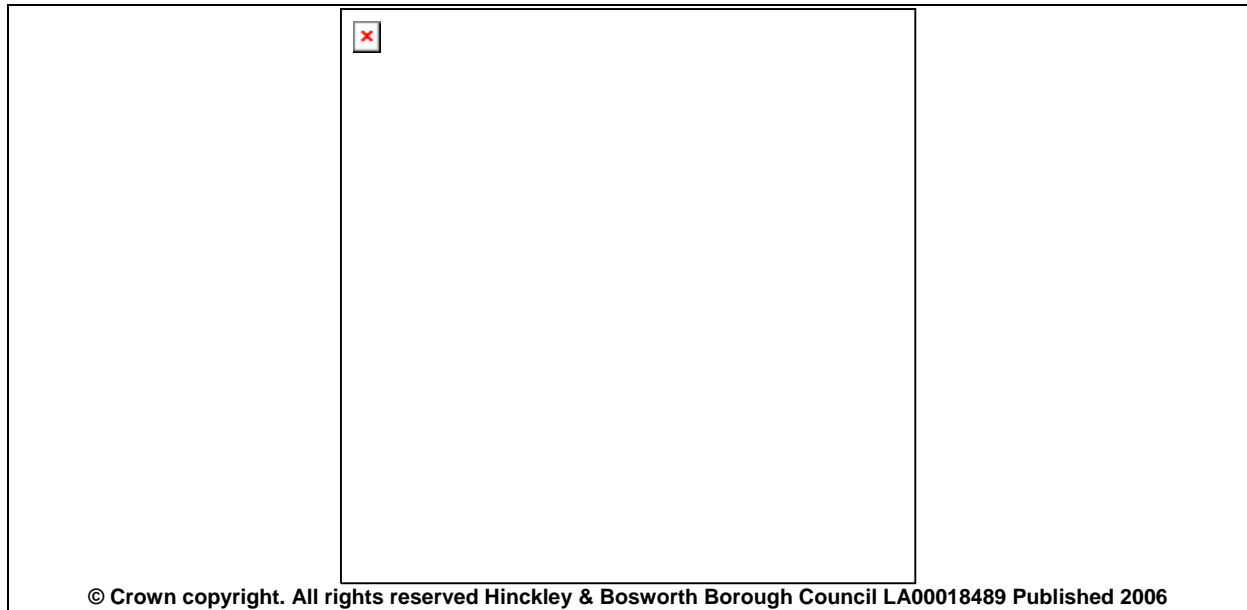
The application therefore proposes the erection of a q5 vertical axis wind turbine upon the roof of the recently permitted college building. The turbine is proposed to be 9.65 metres high including 5 metre high blades and positioned towards the southern edge of the roof adjacent to the car park.

Amended plans have been submitted during the determination of the application which have sought to move the turbine by around 4 metres to the north to avoid positioning it upon a lift shaft.

The application is supported by a Design and Access Statement which includes appendices on noise and shadow flicker.

### History:-

09/00141/DEEM	Redevelopment of the former Atkins factory site for a mixed use development comprising of a new college building and the change of use and conversion of the existing Goddard building for use as a creative industries centre including associated car parking and public realm improvement	Approved	04.09.09
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### **Consultations:-**

No objection subject to conditions has been received from:-

Head of Community Services (Pollution)  
The Society for the Protection of Ancient Buildings  
Chief Executive, Leicestershire County Council (Ecology).

NERL Safeguarding have requested further information on the turbine, their comments will be presented as a late item.

Site notice and Press notice were displayed and neighbours notified.

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

- a) visual impact
- b) noise impact.

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

The Ancient Monuments Society  
The Georgian Group  
The Victorian Society  
The Council for British Archaeology  
English Heritage.

## **Policy:-**

### Central Government Guidance

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

The Planning and Climate Change Planning Policy Statement supplements PPS1 by setting out how planning should contribute to reducing emissions and stabilising climate change and take into account the unavoidable consequences.

Planning Policy Statement 22 - Renewable Energy sets out planning policy for renewable energy development. This states that 'small scale renewable energy schemes utilising technologies such as ... small scale wind turbines ... can be incorporated both into new developments and some existing buildings. Local Planning Authorities should specifically encourage such schemes through positively expressed policies in local development documents.'

PPS22 is supported by a companion guide which provides further information on wind turbine developments and in particular on noise and shadow flicker.

### Local Planning Guidance

#### Hinckley & Bosworth Local Development Framework: Core Strategy (2009)

Core Strategy Policy 1: Development in Hinckley sets out policies specifically relevant to Hinckley including requiring development to be of the highest environmental standards.

#### The Hinckley and Bosworth Local Plan (2001)

Policy BE1 seeks to ensure high quality of new development that complements and enhances the existing environment while protecting the amenity of neighbouring properties.

Policy BE5 concerns the setting of listed buildings and seeks to ensure they are preserved and enhanced through the design of new development in the vicinity having regard to the scale, form, siting and design of the proposal in relation to the listed building and its setting.

Policy BE27 - Wind Power states that planning permission for wind farms and individual wind turbines will be approved where the proposal is capable of generating wind power; where the visual impact is minimised; where noise levels are acceptable; where the turbine is sited away from any public highway or publicly accessible area and no additional overhead power lines are required to connect the proposal to the grid.

## **Appraisal:-**

The main issues in determining this application are considered to be the principle of development; the visual impact and impact on the streetscene; impact on listed buildings; noise and the potential for shadow flicker.

### The Principle of Development

The application site is within the settlement boundary of Hinckley where there is a presumption in favour of development. National planning policy supports renewable energy

development in principle for its potential to reduce greenhouse gas emissions and to address security of supply concerns.

While the proposed development is small and its potential to generate electricity may be questioned PPS22 is clear in stating that “small-scale projects can provide a limited but valuable contribution to overall outputs of renewable energy and to meeting energy needs both locally and nationally. Planning authorities should not therefore reject planning applications simply because the level of output is small.

Furthermore, while perhaps aimed at larger developments, Local Plan Policy BE27 is supportive of wind turbine developments subject to specific criteria as set out above. It is therefore considered that the principle of wind turbine developments in an urban area is acceptable subject to the specific issues discussed below.

### Visual Impact and Impact on the Streetscene

The college building is a three storey flat roofed building of modern design incorporating a mixture of materials including striking yellow render, red brickwork and large areas of glazing. The design reflects the levels on the site, stepping up towards Druid Street and contrasts with the rhythmical design of the adjacent Goddard building and traditionally designed residential properties on both Lower Bond Street and Druid Street. In this respect, the incorporation of a wind turbine is considered to be in keeping with the modern design of the college building and therefore acceptable in that regard.

The turbine is proposed to be positioned centrally within the site and has been slightly amended from that originally submitted to ensure it is not positioned on a lift shaft. The siting is now around 28 metres from the front of the building facing Lower Bond Street and 37 metres from the easterly edge of the building towards Druid Street. It is also positioned 19 metres from the northern edge of the building adjacent to the jitty. To the south the turbine is proposed to be positioned 7 metres from the edge of the building, however this is adjacent to the car parking area which extends for a further 40 metres.

The proposed turbine at a maximum of 9.65 metres in height is considered a minor development when considered in relation to the mass of the college building. The site slopes down from Druid Street towards Lower Bond Street and the height of the College building is stepped to reflect this. At the proposed position of the turbine the building is approximately 13.5 metres high stepping up to 14 metres in the direction of Druid Street adjacent to the turbine.

The central position and the height of the college building will limit views of the turbine from the wider street scene and those views that do exist will show the turbine in the context of the modern college building. The Goddard Building will prevent views from the southern end of Lower Bond Street

Being of a vertical axis design, the turbine has a narrower area swept by the blades when compared to a more traditional horizontal axis design of turbine. This reduced area, along with the fact that it doesn't need to yaw in search of the wind, i.e. the turbine does not need to turn to face the wind, will mean that the proposal moves less than other turbines and therefore will be less likely to catch the eye of passing pedestrians or motorists.

The main views of the turbine are expected to be from within the proposed Plaza area to the rear of the Goddard building and from the southern end of Druid Street where the open aspect of the college car park will allow longer views. From both of these views the turbine will be seen along with elements of the college building and again will be seen as a modern addition to a building of modern design. It is considered that views of the turbine and any



adjacent listed buildings will be limited due to the central position of the turbine and position of many surrounding buildings being at the back of the pavement restricting views.

Any detrimental impact to the streetscene that may be caused by the turbine needs to be weighed against its positive environmental impact both in terms of the generation of zero-carbon electricity and the potential for students and others to understand the connection between the turbine, electricity generation and energy use.

The college building is higher than properties on Druid Street therefore the building will limit views of the turbine from most of these properties. Properties to the southern end of Druid Street facing the college car park will have an obscured view of the turbine but at a distance of 61 metres which is not considered to be detrimental. Similarly, the college building is considered to limit views of the turbine from properties on Lower Bond Street. Properties that do face the entrance to the college are 50 metres from the turbine therefore again the impact from views of the turbine is considered to be limited.

The turbine is therefore considered to have a limited impact on the streetscene given its design, the design of the building on which it is positioned and the potential for views of the turbine from the public realm.

#### Impact on Listed Buildings

The application site has a number of listed buildings nearby. To the north is the Holly Bush Inn a 1930s Art Deco public house, to the south is the Goddard building formally used in the hosiery industry dating from the 1870s, to the south-west is the Framework Knitters Cottage occupied by the Hinckley Museum while to the south is the Great Meeting Hall Unitarian Chapel. All these are statutorily listed Grade II.

As set out above, the modern design of the college building has been found to be acceptable in this position with regards to its impact on the surrounding listed buildings. Given that, it is considered that the turbine, as a modern addition to the modern building, would not be overly detrimental to the setting of these listed buildings. Furthermore, views from the Holly Bush and the Framework Knitters Cottage of the turbine will be limited by the position of the college and Goddard building.

Views of the turbine will be possible from the rear of the Goddard building and the Great Meeting Hall however these will be at some distance from the turbine and will show views of the turbine in its context as part of the modern design of the college building.

While the movement of the turbine may, to some degree, draw the attention of passers by from the listed buildings it is considered that the positioning deep within the application site would limit views of the turbine and therefore its impact on the setting of the listed buildings.

#### Noise

The application has been accompanied by a generic noise report which assesses the potential noise impact from this type of turbine. This has been reviewed by Environmental Health Officers who have raised no objection subject to a number of conditions.

The conditions seek for a method of noise measurement to be agreed and that the noise level at any dwelling shall not exceed 5dB(A) above background level. Further conditions require that a mechanism is fitted to allow the turbine to be switched off in event that the noise level breaches the agreed limit and that noise levels cannot return to below that threshold within 48 hours.

These conditions are considered to be potentially onerous on the applicant as the comments do state that the details submitted regarding noise indicate that noise should not breach current noise standards at the nearest dwelling. Furthermore, it is considered that taking noise measurements at neighbouring properties will not be within the control of the applicant and therefore potentially something that they cannot comply with. However, it is considered that control over noise emissions is required and discussions are ongoing with Environmental Health Officers and the applicant in regard to this, further details will be provided as a late item.

### Shadow Flicker

Shadow Flicker is a phenomenon whereby the position of the sun, turbine and window are aligned so that the turbine blades pass through the sunshine entering a room to create a flickering effect. As the proposed turbine has a vertical axis where the blades are much closer to the centre of the turbine this is considered to be less of an issue than for horizontal axis turbines.

The Companion Guide to PSS22 sets out that the effect can only occur 130 degrees either side of north as long shadows cannot be cast to the south. Furthermore, the Companion Guide states that shadow flicker has been proven to occur only within a distance of 10 rotor diameters from the turbine. Again the vertical axis turbine does not have a rotor diameter similar to horizontal machines but the manufacturer suggests that a 4.2 metre diameter would be the equivalent, as opposed to the 3.1 metre diameter the turbine actually has. Either way, the effect would not extend to the neighbouring properties on Lower Bond Street or Druid Street or the adjacent Leicestershire County Council offices.

Any shadow cast is only likely to affect the roof lights on the college building itself and the potential for this shadow to create a flicker effect given the nature of the turbine and the size and position of the roof lights is considered to be minimal. If flicker is created within the college building it can easily be addressed by the use of blinds or turning off the machine.

### Conclusion

The proposed turbine is considered to be a minor modern addition to a building of modern design. Views will be limited due to its position centrally within the site and the height and position of neighbouring buildings. Any views that are obtained are considered to show the turbine in the context of the modern development and are therefore not detrimental to the streetscene or neighbouring listed buildings. Given the nature, size and position of the turbine the potential for noise is considered to be limited subject to conditions while the likely effect of shadow flicker is not considered to be a concern. The application is therefore recommended for approval.

**RECOMMENDATION:- That subject to no significant material observations being received by the end of the consultation period expiring on 10th June 2010, the Deputy Chief Executive (Community Direction) shall be granted delegated powers to grant planning permission for the development subject to the following conditions:-**

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

Having regard to the original grant of planning permission; representations received; the principle of development; visual impact; impact on the setting of listed buildings; noise impact; shadow flicker and the 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.

SUMMARY OF DECISION - The proposal is in conformity with Policies BE1, BE5 and BE27 of the Hinckley and Bosworth Local Plan and Policy 1 of the Core Strategy. Planning permission is granted subject to conditions:-

- 1 The development hereby permitted shall be carried out in accordance with the approved plans:  
0800464/A/PL24 Revision A - Site Plan - Received 24th May 2010.  
080464/A/PL07 Revision D - Roof Plan - Received 24th May 2010.  
080464/A/PL11 Revision D - Site Sections - Received 24th May 2010.  
080464/A/119 Revision A - Wind Turbine Detail - Received 12th April 2010.
- 2 This permission shall relate to the variation of Condition 24 of permission 09/00141/DEEM dated 4 September 2009. All other conditions of the original permission remain, unless subsequent variations have been made.

**Reasons:-**

- 1 For the avoidance of doubt and in the interests of proper planning.
- 2 For the avoidance of doubt.

**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:-** Philip Metcalfe Ext 5740

**Item:** 04

**Reference:** 10/00271/DEEM

**Applicant:** NWHC And HBBC

**Location:** Goddard Building Lower Bond Street Hinckley Leicestershire LE10 1QU

**Proposal:** VARIATION OF CONDITION NO. 2 OF PLANNING PERMISSION 09/00141/DEEM TO ALLOW MINOR MATERIAL ALTERATIONS

**Introduction:-**

Planning permission 09/00141/DEEM was granted on 4 September 2009 for the re-development of the former Atkins Site for a mixed use development comprising a new college building for occupation by North Warwickshire and Hinckley College and the change of use and conversion of the existing Grade II Listed Goddard Building for use as a Creative Industries Centre. The works included external alterations and the erection of ancillary structures to the Goddard Building, the provision of off-street car parking which includes the reinstatement of the existing car park area on Lower Bond Street (Site D), the creation of a new car parking area (Site E), the re-marking of the existing car parking area on the corner of Druid Street and Hollier's Walk (Site F) and public realm improvements.

This application seeks to vary condition 2 of planning permission 09/00141/DEEM to allow minor amendments to the approved plans. The amendments relate to the Grade II Listed Goddard Building only. The alterations are sought to improve the layout and circulation within the building and include variations to:

- Openings 01-11 inclusive retained with rendered brick infill;
- Openings 12-18 inclusive fitted externally with security screens;
- Opening 19 reduced in height to existing reconstituted stone spandrel panels;
- Opening 21 stripped of circa 1960 entrance surround; original projecting cornice to opening head reinstated and rusticated stone cladding applied each side of opening to obscure the original red facing brickwork damaged beyond repair;
- Opening 85a returned to original layout;
- Opening 96 altered to become Public Entrance at Street Level;
- Opening 96b amended to re-use of existing opening to former building extension;
- Opening 46 reinstated;
- Opening 56 amended to include auto sliding fully glazed doors;
- External Deck to Ground Floor Level of Building 2 amended to include polyester powder coated balustrade with perforated metal panels;

- A polyester powder coated balustrade to the top of the retaining wall in replica to that existing in front of the Unitarian Chapel.

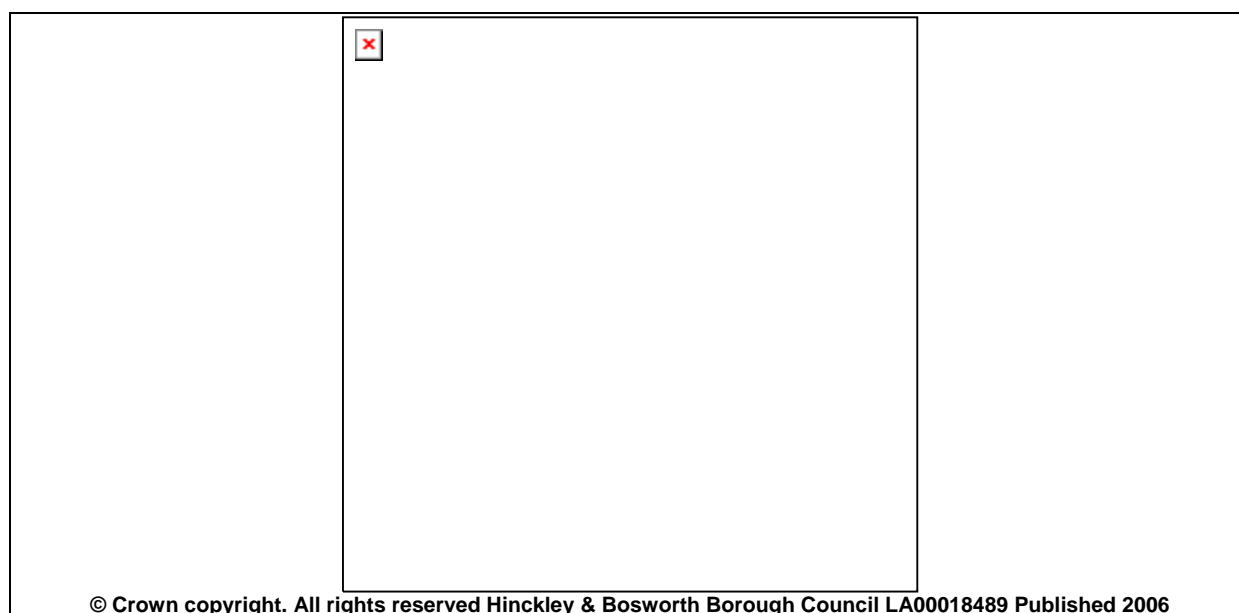
The Goddard Building itself is located within the Hinckley Town Centre Conservation Area and the remainder of the site borders the Hollycroft Conservation Area and lies within close proximity to the Druid Quarter Conservation Area.

The Goddard Building, a Grade II Listed Building, was built in two stages during 1875 -1878 and consists of an L-shaped block. The site previously consisted of a range of buildings used in the hosiery industry. The Holly Bush Public House is a Grade II Listed 1930's art deco building which is located to the north of the site. No. 30 (formerly known as Framework Knitters Cottages) is a Grade II Listed timber framed and thatched building located to the west of (opposite) the Goddard Building. The Great Meeting Hall is a Grade II\* Unitarian Chapel and is located to the south east of the site at the rear of the Goddard Building.

### History:-

10/00264/DEEM	Variation of condition No. 2 of listed building consent 09/00142/LBC to allow external and internal alterations	Withdrawn	26.05.10
10/00221/CONDIT	Variation of Condition No 24 of planning permission 09/00141/DEEM to allow a wind turbine on the roof of the approved college building	Pending Consideration	
09/00141/DEEM	Re-development of the former Atkins factory site for a mixed use development comprising of a new college building and the change of use and conversion of the existing Goddard building for use as a creative industries centre, including associated car parking and public realm improvement	Approved	04.09.09
09/00142/LBC	Conversion and adaption of the Grade II Listed Goddard Building to facilitate use as a creative industries centre	Approved	15.05.09
09/0003/LBC	Works to windows/openings (including replacement), flat Roof covering upgrade, lightning protection and the removal of redundant building services	Approved	30.03.09
08/01169/LBC	Installation of CCTV cameras, including an anti theft guard	Withdrawn	28.01.09

08/00959/LBC	Alterations to roof and replace gutter pipe	Approved	25.11.08
08/00691/ADV	Erection of signage	Approved	01.08.08
07/01218/LBC	Demolition of buildings	Approved	28.01.08
05/01112/CON	Demolition of existing building	Refused	11.01.06
05/01111/FUL	Mixed use development of dwelling and Work units with garages, landscaping and roads	Refused	11.01.06



### Consultations:-

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

The Director of Environment and Transport (Ecology) refers to the report submitted with the original application which identified evidence of bats in the building and the mitigation measures involved.

English Heritage state that the application should be determined in accordance with national and local policy guidance, and on the basis of expert conservation advice.

Site notice and Press notice were displayed and neighbours notified.

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

Director of Environment and Transport (Archaeology)  
 Hinckley Civic Society  
 The Victorian Society  
 Society for the Protection of Ancient Buildings  
 Ancient Monuments  
 Georgian Group

Council for British Archaeology  
The Twentieth Century Society.

## **Policy:-**

### Central Government Guidance

Planning Policy Statement 1 (PPS1): Delivering Sustainable Development refers to the delivery of sustainable development through the planning system. It promotes the more efficient use of land through higher density, mixed use development, and the re-use of suitably located previously developed land and buildings.

Planning Policy Statement 4 (PPS4): Planning for Sustainable Economic Growth incorporates the town centre and retail policy statements contained in PPS6 and the policies on economic development in urban and rural areas in PPG4, PPG5 and PPS7 into a single PPS. PPS4 places retail and other town centre development in a wider context, as 'economic development' which provides employment, generates wealth and/or economic growth.

Planning Policy Statement 5: Planning for the Historic Environment (PPS5) published on 23 March 2010 replaced Planning Policy Guidance 15: Planning and the Historic Environment (PPG15). The document sets out the overarching planning policies on the conservation of the historic environment.

Planning Policy Guidance 13 (PPG13): Transport promotes more sustainable transport choices both for carrying people and for moving freight.

Planning Policy Statement 22 (PPS22): Renewable Energy sets out the Government's policies for renewable energy. Paragraph 18 states that small scale renewable energy schemes utilising technologies such as solar panels, Biomass heating, small scale wind turbines, photovoltaic cells and combined heat and power schemes can be incorporated both into new developments and some existing buildings.

Planning Policy Statement 25: (PPS25) Development and Flood Risk sets out the Government's policy on development and flood risk.

### Local Plan Policy

Hinckley and Bosworth Local Plan 2001

The site is identified in the adopted Hinckley and Bosworth Local Plan as an employment site and is in part within the Hinckley Town Centre Conservation Area.

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

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

Policy BE5 states that the settings of listed buildings will be preserved and enhanced by appropriate control, any other proposal, will be discouraged where it would threaten the future economic viability of a listed building.

Policy BE6 seeks to ensure that proposals for change of use and conversion of such buildings will generally only be considered if they represent the only reasonable means of

conversion of such buildings will generally only be considered if they represent the only reasonable means of conserving the character, appearance, fabric, integrity and setting of a building of special architectural or historic interest.

Policy BE7 seeks to preserve or enhance the special character and appearance of conservation areas.

Policy EMP1 seeks to actively retain existing employment sites for employment purposes. The site is allocated as EMP1(b) which considers other employment activities or alternative uses on their merits.

#### Other Material Policy Documents

The Hinckley Town Centre Renaissance Masterplan adopted May 2006 identifies the factory site (Area 2) for potential mixed use including residential, live/work and office/studio space for creative industries. The issues and aims are identified as the retention of the high quality historic Atkins Factory Building for mixed uses, and redevelopment of poor quality modern factory buildings for residential development; residential parking provided by internal courtyards; improved links to the Druid Quarter and provide natural surveillance of adjacent footpaths and public open space.

Hinckley Town Centre Area Action Plan (AAP) (Proposed Submission Document) October 2008 will form part of the Hinckley and Bosworth's 'Local Development Framework'. The AAP builds on and updates the proposals contained in the Hinckley Town Centre Renaissance Masterplan. Policy 3 Atkins Factory Strategic Development Area sets out the key principles for the re-development of the site.

#### **Appraisal:-**

The principle of development has already been established by the granting of planning permission 09/00141/DEEM and listed building consent 09/00142/LBC. The main issue in respect of this application is whether or not the variations to the external elevations impact on the character and setting of the listed buildings and conservation area. No other material considerations have changed significantly since the original grant of permission.

#### Impact on Listed Buildings and Conservation Area

In terms of the impact on the special interest of the Goddard Building, the proposal preserves the buildings architectural and historic qualities. The original entrances and circulation patterns are to be maintained. The proposed modifications to those previously approved are considered to improve the originally approved scheme. The alterations in the main relate to the existing opens and include retaining opens as the status quo; fitting security screen, re-instating openings and alterations to glazing.

In addition, the external deck to the ground floor level of Building 2 has been amended to include polyester powder coated balustrade with perforated metal panels together with the introduction of a balustrade to the top of the retaining wall in replica to that existing in front of the Unitarian Chapel these additions are acceptable in the context of this robust industrial building.

Officers have worked closely with English Heritage to ensure that the changes have been carefully considered so as to have minimum impact on the historic fabric and setting of the listed buildings, whilst still ultimately achieving a high quality scheme with character.

#### Conclusion



It is considered that the submitted scheme preserves the building's architectural and historic qualities and secures the sympathetic and effective restoration of this Grade II Listed Building. It is considered the works will have no detrimental impact on the buildings character and appearance nor on the historic fabric of the building as such it is considered that the modifications to the approved scheme are considered acceptable.

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

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

Having regard to the original grant of planning permission, with no other material considerations changing significantly since, the character and appearance of the listed building and the 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.

Hinckley & Bosworth Borough Council Local Plan (2001) :-  
BE1, BE4, BE5, BE6, BE7 and The Hinckley Town Centre Renaissance Masterplan

- 1 The development hereby permitted shall be carried out in accordance with the approved plans:

This permission relates to the original application plans Archial Dwg Nos. 0123 Rev G, 0124 Rev F, 0126 Rev E; received by the Local Planning Authority on 8 April 2009 and PL02 Rev C, PL03 Rev C, PL04 Rev C, PL04 Rev C, PL05 Rev C, PL06 Rev C, PL07 Rev C, PL08 Rev C, PL09 Rev C, PL10 Rev C, PL11 Rev C, PL13 Rev C, PL14 Rev C, PL15 Rev C, PL16 Rev C, PL17 Rev B, PL18 Rev B, 961-001 Rev D, 961-200 Rev D, 6016(iii) Rev D, 6013 Rev D.

Together with the Revised Drawing Nos 0120 Rev I, 0121 Rev G and 0122 Rev G received on 15 April 2010.

Pick Everard Dwg Nos. 080464/PL02 Rev C (Site Layout Plan), 080464/PL03 Rev C (Ground Floor Plan), 080464/PL04 Rev C (First Floor Plan), 080464/PL05 Rev C (Second Floor Plan), 080464/PL06 Rev C (Third Floor Plan), 080464/PL07 Rev C (Roof Plan), 080464/PL08 Rev C (Elevations 1), 080464/PL09 Rev C (Elevations 2), 080464/PL10 Rev C (Building Sections), 080464/PL11 Rev C (Site Sections), 080464/A/PL13 Rev C (Colour Site Plan), 080464/APL14 Rev B (Colour Floor Plans), 080464/A/PL15 Rev C (Colour Elevations 1), 080464/A/PL16 Rev C (Colour Elevations 2), 080464/A/PL17 Rev B (Colour Perspective Views 1), 080464/A/PL18 Rev B (Colour Perspective Views 2) received by the Local Planning Authority on 21 May 2009.

- 2 This permission shall relate to the variation of Condition 2 of permission 09/00141/DEEM dated 4 September 2009. All other conditions of the original permission remain, unless subsequent variations have been made.

**Reasons:-**

- 1 For the avoidance of doubt and in the interests of proper planning.
- 2 For the avoidance of doubt.

**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:-** Cathy Horton Ext 5605

**Item:** 05

**Reference:** 10/00247/FUL

**Applicant:** Mr Mitchell Green

**Location:** Land Adjacent To 19 Summers Close Kirkby Mallory Leicestershire LE9 7QP

**Proposal:** ERECTION OF ONE NEW DWELLING WITH DETACHED GARAGE

**Introduction:-**

This application seeks full planning permission for the erection of a detached dwelling, detached double garage and associated access on an irregularly shaped plot of land on the west side of Summers Close, Kirkby Mallory, close to its junction with Main Street. The proposed dwelling would be of two storey construction but with additional rooms in the roof space. The ground floor layout would provide a breakfast kitchen, dining room, drawing room, sitting room, study, utility and cloak room. The first floor layout would provide five bedrooms, including two with en-suite facilities. The roof space would provide a master bedroom and separate bathroom and include two dormer windows to the rear roof elevation and two roof lights to the front roof elevation.

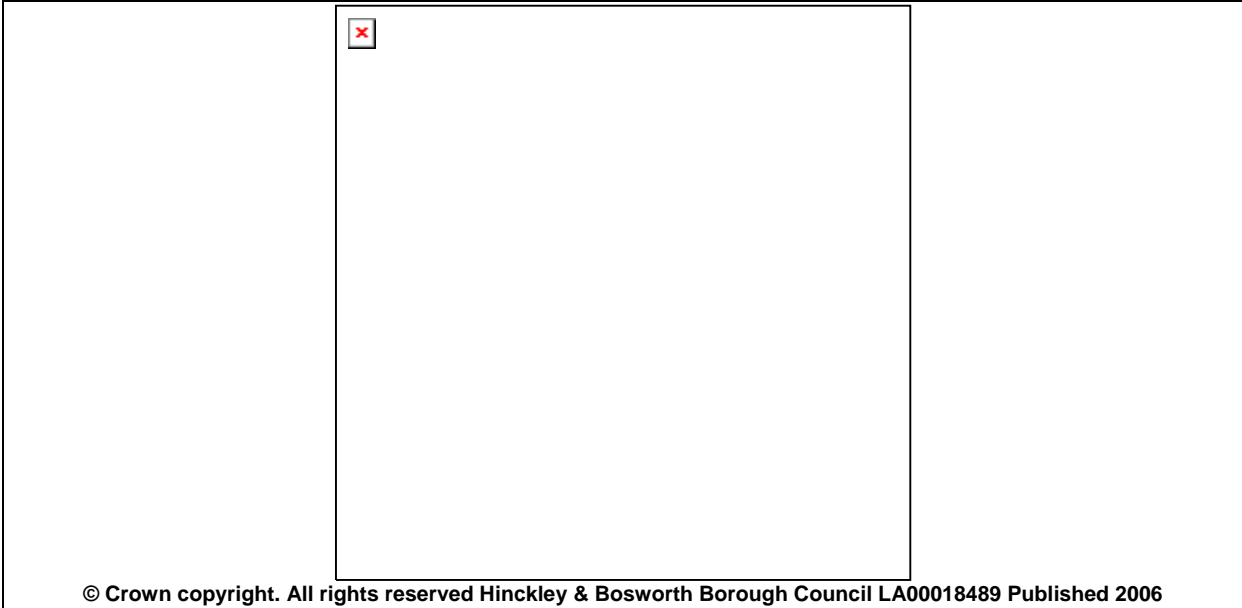
The application site measures approximately 0.07 hectares and is located between a residential development to the east and a large area of public open space to the west. It is currently overgrown and unused other than as informal access to the playing field. There are some ornamental trees and shrubs within the site. Planning permission for a similar proposal was approved by planning committee in 2004 following consideration of comments made by a Planning Inspector in respect of this plot, in dismissing an appeal for two dwellings on a larger site that incorporated the land immediately to the north on the Main Street junction.

A Design and Access Statement has been submitted to support the application. This states that the site is already designated for residential development and the design and scale of the proposed dwelling is in keeping with adjoining properties and in proportion to the site area. In addition, it states that the use of the roof space is to maximise the available living

accommodation within the footprint of the building without increasing its size or form and the layout fronts onto Summers Close to maintain the street scene and respects the privacy of neighbouring properties. It further states that the use of quality materials will produce a high standard family home.

**History:-**

03/01286/FUL	Erection of 1 x Two Storey Dwelling and Detached Double Garage	Approved	10.05.04
02/00376/FUL	Erection of Two Detached Houses and Garages	Refused Appeal Dismissed	22.05.02



**Consultations:-**

No objection has been received from:-

- Head of Community Services (Pollution)
- Head of Community Services (Land Drainage)
- Head of Business Development and Street Scene Services.

Director of Environment and Transport (Highways) comments that whilst the site is not a good location in terms of sustainability for transport choice or local facilities, no objection is raised subject to the satisfactory provision of adequate parking and access (including pedestrian visibility splays, surfacing, gradient and drainage) under the standing advice procedure.

Site notice displayed and neighbours notified. 5 letters have been received raising the following objections, issues and concerns:-

- a) detrimental to the amenity of neighbouring properties due to size, height, mass, orientation and proximity - would be overbearing and reduce light and open outlook, and privacy from overlooking
- b) detrimental to highway safety - poor visibility, inadequate off-street parking and extra traffic movements
- c) overdevelopment of the site and not in keeping with the design and style of the close

- d) loss of open aspect of Summers Close and the special character of the public open space
- e) loss of trees and a natural environment
- f) additional pressure on infrastructure
- g) land could be used for alternative uses
- h) land has not been landscaped as per previous s106 agreement
- i) negative impact on property values
- j) disturbance from construction works.

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

## **Policy:-**

### National 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. Paragraph 5 states that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development. Paragraph 27 promotes the more efficient use of land.

Planning Policy Statement 3 (PPS3): Housing sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to deliver high quality housing that is well designed and built to a high standard. Paragraph 10 also supports a wide variety of households in all areas, both urban and rural and 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. Paragraph 16 outlines matters to consider when assessing design quality and includes the extent to which the proposed development is well integrated with, and compliments, the neighbouring buildings in terms of scale, density, layout and access. Paragraph 37 recognises the need to create and maintain sustainable, mixed and inclusive communities in all areas, both urban and rural.

Planning Policy Guidance Note 13 (PPG13): 'Transport' sets out national transport planning policy. The guidance within this PPG states that local planning authorities should accommodate housing principally within urban areas and promote accessibility to services by public transport, walking and cycling and reduce the need to travel.

### Regional Policy

The East Midlands Regional Plan (adopted March 2009) provides the development strategy for the East Midlands up to 2026. Policy 1 seeks to secure the delivery of sustainable development. Policy 2 promotes better design. Policy 3 states that the development needs of rural settlements should be provided for and requires new development to maintain the distinctive character and vitality of rural communities. Policy 43 seeks to reduce the need to travel and promote modal shift away from the private car.

### Local Policy

Hinckley and Bosworth Local Development Framework: Core Strategy (2009)

Policy 13 'Rural Hamlets' supports housing development within settlement boundaries that provides for a mix of housing types and tenures.

Policy 19 'Green Space and Play Provision' refers to standards in relation to the provision of green space and play areas

Policy 24 'Sustainable Design and Technology' requires development in rural areas to meet the sustainability targets in current Building Regulations.

#### Hinckley and Bosworth Local Plan (2001)

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

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 BE1 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, density, mass, design, materials and architectural features; avoid the loss of open spaces and important gaps in development which contribute to the quality of the local environment; have regard to the safety and security of individuals; ensure adequate highway visibility and parking standards and manoeuvring facilities; do not adversely affect the amenities of neighbouring properties; incorporate landscaping to a high standard.

Policy BE19 states that the planning authority will seek to retain any open area of land that makes a contribution to the special character of a settlement and that planning permission will not be granted where it would adversely affect that contribution.

Policy NE12 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 and surface water drainage.

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

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.

#### Other Policy Documents

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

The Supplementary Planning Guidance (SPG) 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 (SPD) (2008) provides further guidance to developers in respect of the different types of open space and the level of financial contributions required.

The Sustainable Design and Technology Supplementary Planning Document (SPD) (2008) provides further guidance on such measures and encourages developers to deliver sustainable homes in line with national best practice guidance, primarily the Code of Sustainable Homes standards.

### **Appraisal:-**

The principle of residential development of the site for a single dwelling and detached garage on a similar layout, footprint and orientation has been established by the previous planning permission issued in 2004. The main considerations with regards to this application are, therefore, the design of the development, and its impact on the character and appearance of the area, the amenities of neighbouring properties, highway safety and other issues.

### Design

In general terms, the proposed dwelling would have a similar but improved design to that previously approved in 2004. The design of the dwelling includes architectural features that provide interest including a number of subordinate gables, plinth detail, chimneys, bay window, feature porch and cills and headers to fenestration. The main changes from the previously approved scheme include: a small increase in the overall ridge height of approximately 0.25 metres providing additional living accommodation within the roof space; the inclusion of dormer windows to the rear roof elevation and two velux windows to the front roof elevation; and three windows in the side elevation gables at roof level. The relatively small increase in the ridge height is not considered to increase the mass of the proposed dwelling by any significant degree. However, as a result of this change and neighbour concerns, the applicant has been asked to submit an additional plan and information in respect of ground levels and proposed finished floor levels of the dwelling to demonstrate its relationship to existing development. The current ground level of the site is slightly higher than the footway in Summers Close and the adjacent property (No. 19) and there is some scope to reduce levels within the site such that the proposed dwelling would not be over dominant in the street scene. The additional plan and information has not been received at the time of writing this report and will be discussed as a late item to the agenda.

Whilst dormer and velux windows are not a feature of the existing development in Summers Close, they are a common feature within the village and therefore they are not considered to be unacceptable in design terms. The additional windows in the side elevation gables add interest to the elevations and are not considered to have an adverse impact on the design and appearance of the proposed dwelling.

Overall, the proposed development is considered to have a well proportioned, high quality design and be in keeping with surrounding development in terms of density, footprint, scale and design.

### Character and Appearance of the Area

The application site is currently overgrown. The planning history of the site includes an application for two dwellings on a larger site which included the current application site. Whilst this was refused by committee and the subsequent appeal was dismissed, the Planning Inspector considered that subject to resolution of its orientation, a dwelling on the application site 'would be acceptable in terms of the objectives of Policy BE19 (which seeks to protect the 'open space and area of special character' to the west) given the close physical

relationship to adjacent development and its set back from the Main Street'. Therefore, whilst the proposal is not in conformity with policy BE19, the previous planning permission for a single dwelling and garage on the site was approved having taken account of the Inspectors comments which were considered to override the policy consideration. The relatively minor increase in the ridge height of the proposed dwelling is not considered to have an adverse impact on the character or appearance of the open area to the west, subject to satisfactory floor levels being established.

A combination wall and fence of a height of 2.0 metres is proposed to enclose the site from the open space to the west, similar to existing boundary treatments on adjacent dwellings. A post and rail fence of a height of 1.5 metres is proposed along the north boundary. These boundary treatments are considered to be in keeping with the area.

### Amenity of Neighbouring Properties

The footprint of the proposed dwelling and garage and their orientation have previously been considered to be acceptable in relation to neighbouring properties. The relatively minor increase in the ridge height of the proposed dwelling is not considered to have any significant adverse effect on the amenities of neighbouring properties in terms of an overbearing impact or loss of light given the orientation of the dwellings and the separation distances proposed, subject to satisfactory floor levels being established. The door and windows on the side elevation of 19 Summers Close facing the site are not to main habitable rooms. From the written representations received from the occupiers, the side elevation of the adjacent dwelling has a door to the utility room, a downstairs cloakroom window and a first floor bathroom window.

The rear facing dormer windows are not considered to have any significant adverse impact on the privacy of neighbouring properties given the orientation of the dwellings and the separation distances proposed. The side boundary of 19 Summers Close and the rear boundaries of 17 and 16 Summers Close are defined by a combination brick wall and timber fence to a height of approximately 1.8 metres which, along with additional planting within the gardens, provides adequate privacy. The proposed windows at roof level in the side elevation gables are all proposed to be fitted with obscure glazing to remove any potential overlooking to neighbouring properties and such detail could be secured by an appropriately worded condition if considered necessary.

### Highway Issues

Whilst the Director of Environment and Transport (Highways) raises the issue of the sustainability of the rural location, no objection is raised subject to the satisfactory provision of adequate access and off-street parking to serve the development. It is considered unlikely that a refusal of the application on the sustainability of the location would be successfully defended at appeal in this case. An amended plan has been requested to amend the location of the access in order to provide adequate pedestrian visibility splays on both sides of the access within the applicant's land ownership. Details of the surfacing of the access have not been submitted but can be secured by an appropriately worded condition. Proposed ground levels and finished floor levels are still to be submitted but it is unlikely that conditions would be required to control the gradient or surface water drainage from the access. The detached double garage would provide off-street parking for two cars and the substantial driveway would enable more than adequate additional parking to be provided within the site such that the development would not have an adverse impact on highway safety.

### Other Issues

The development involves the creation of an additional dwelling and will, therefore, place additional pressure on local services. As the development relates to a single dwelling, there is no requirement for developer contributions towards infrastructure services other than the provision and maintenance of public play and open space. In this case a standard contribution of £1250.80 will be required in accordance with policy REC3 of the adopted Hinckley and Bosworth Local Plan, policy 19 of the adopted Core Strategy, the Council's Supplementary Planning Document on Play and Open Space and the Green Space Strategy and Audits of Provision. The contribution would be used for the provision and maintenance of children's play space and equipment on the adjacent recreation area to the west identified as The Leys.

As the development is in a rural hamlet, no sustainable design measures are required other than to meet current Building Regulation requirements.

There are no trees or vegetation of any special significance within the site and no indication of the presence of any protected species. Disturbance from construction works is temporary in nature. Impact on property values is not a material planning consideration.

### Conclusion

The principle of residential development on the site of a single detached dwelling and garage on a similar footprint and orientation has been established by a previous planning permission in 2004. The proposed dwelling and garage are considered to have a high quality design in keeping with surrounding development. The current proposals are not considered to have any significant additional impact on either the character or appearance of the area or the amenities of neighbouring properties (subject to satisfactory ground and finished floor levels) or highway safety than the previously approved scheme. The development would contribute towards the provision of public play and open space. The application is, therefore, recommended for approval subject to the resolution of the ground and finished floor levels of the dwelling and conditions.

**RECOMMENDATION:- Permit subject to resolution of the ground and finished floor levels issue identified in the report to Members satisfaction prior to 8th June 2010 and the following conditions:-**

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as: the site is within the settlement boundary of Kirkby Mallory; the layout, design, scale, mass and orientation are satisfactory; and it would not have an adverse impact on the character or appearance of the area, the amenities of the occupiers of neighbouring properties or highway safety.

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (2009): policies 13, 19 and 24.

Hinckley & Bosworth Borough Council Local Plan (2001) :- policies BE1, RES5, 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: Site Location



Plan at 1:1250 scale; Plans and Elevations Drawing Nos. 5530 b and G02a received by the Local Planning Authority on 6th April 2010.

- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling and garage shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 The side elevation windows above ground floor level shall be fitted with obscure glazing, as indicated on Plans and Elevations Drawing No. '5530 b' received by the Local Planning Authority on 6th April 2010, and shall be retained as such at all times thereafter.
- 5 The development hereby permitted shall not commence before the provision and maintenance of off-site open space or facilities whether by off-site physical provision or financial contributions as required in accordance with policy 19 of the adopted Core Strategy and 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.
- 6 Prior to first occupation of the development hereby permitted, the access drive shall be surfaced in permeable hard bound materials (not loose aggregate) for a minimum distance of 5 metres behind the highway boundary and once provided shall be retained as such at all times thereafter.
- 7 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 once provided they shall be so maintained in at all times thereafter.

**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 BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure that the development is not detrimental to the privacy and amenity of the neighbouring properties to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure the adequate provision and maintenance of public play and open space within the vicinity of the site to accord with policy 19 of the Local Development Framework Core Strategy and policy REC3 of the adopted Hinckley and Bosworth Local Plan.
- 6 To reduce the possibility of deleterious materials (loose stones etc.) being deposited in the highway in the interests of highway safety to accord with policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 7 To ensure that an adequate line of vision is available in the interests of road safety to accord with policy BE1 and T5 of the Hinckley and Bosworth Local Plan.

### Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site [www.planningportal.gov.uk](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 In relation to Condition 5, in this case a financial contribution of £1250.80 per dwelling will be required towards the provision and maintenance of off site public play and open space in lieu of on site provision.

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

**Item:**                      06

**Reference:**              10/00375/OUT

**Applicant:**              Rellum Estates LLP

**Location:**              30A Barton Road Barlestone Nuneaton Leicestershire CV13 0EP

**Proposal:**              CONSTRUCTION OF SEVEN DETACHED DWELLINGS (AMENDED SCHEME)

### Introduction:-

This is a revised outline application for a residential development of seven 4 bed roomed detached dwellings on the site of a former hosiery factory accessed by a private drive from

Barton Road. The application seeks approval for access, appearance, layout and scale with landscaping reserved for approval at a later date.

The application is a revised submission following a very similar proposal submitted in 2009 that was refused because it failed to provide any affordable housing. The matters of siting, access, scale and appearance were considered at the time of the earlier application and were considered acceptable. The Council's refusal on the lack of affordable housing is currently subject to an appeal.

The site is surrounded by residential development to the north, south and west. To the east is the access driveway serving the football ground from Barton Road. Adjacent to the access drive to the east is Barlestone Cemetery.

The layout proposed includes a row of properties fronting the access drive and a row facing north towards the adjacent residential development. The properties proposed are two and a half storeys, of simple vernacular design, with brick elevations and steep pitched tiled roofs with dormers. All dwellings have integral garages and one parking space in front of the garage.

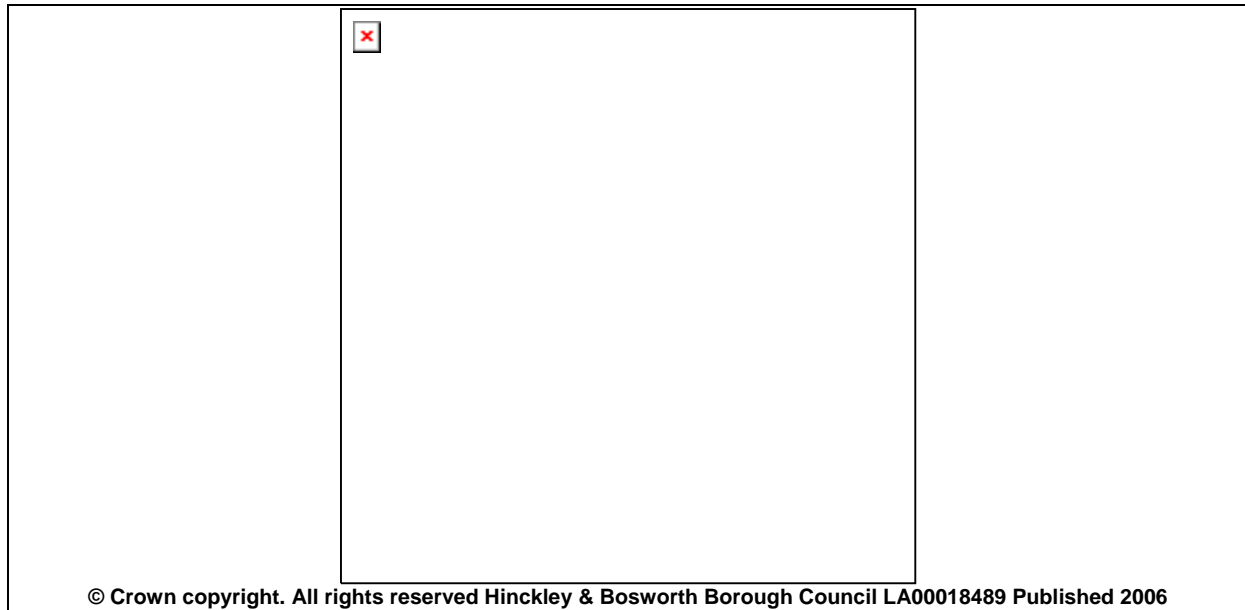
The application is accompanied by a viability appraisal which provides details of the development costs which confirms that the development cannot afford to make an affordable housing contribution. A draft legal agreement confirms that the applicant is willing to make a full play and open space and healthcare contribution.

An accompanying planning statement confirms a series of important planning considerations that make this proposal different to the earlier 2009 application. A design and access statement explains the proposals design concept and its differences from the previous scheme.

The current application has been subject to extensive pre-application advice.

#### **History:-**

09/00432/OUT	Construction of seven dwellings (amended scheme)	Refused At appeal pending determination	02.11.09
08/00982/OUT	Construction of seven dwellings (amended scheme including alterations to second floor layout).	Approved	11.12.08
08/00324/COU	Change of use from factory to a church	Approved	14.08.08
07/00485/FUL	Construction of seven dwellings	Approved	19.06.07
06/00827/OUT	Demolition of existing factory and erection of four dwellings with associated parking and access	Approved	22.01.07



### **Consultations:-**

The Borough Council's Economic Viability Consultant confirms that the proposal and the developers arising profit is well below what would be considered a reasonable market rate at the moment, and therefore it would be difficult to argue there is any 'surplus profit' to support any further contributions.

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

Director of Environment and Transport (Highways)  
Directorate of Chief Executive, LCC (Ecology)  
Barlestone Parish Council  
Environment Agency  
Severn Trent Water  
Head of Business Development and Street Scene Services (Waste Minimisation)  
Head of Community Services (Pollution)  
Head of Community Services (Land Drainage).

Site notice displayed and neighbours notified.

### **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. The PPS also details that Local Planning Authorities should maintain a 5 year land supply in housing delivery figures.

The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122 provides a statutory duty in respect of planning obligations and requires them to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. The Regulation does not replace Circular 05/2005 but gives it a statutory foothold in planning legislation.

Government Circular 05/2005: Sets out the Secretary of State's policy on Planning Obligations, and should be given significant weight in decision making and developer contributions.

The Circular advises, inter alia, that in some cases, perhaps arising from different site specific circumstances, it may not be feasible for the proposed development to meet all the requirements set out in local, regional and national planning policies and still be economically viable. In such cases, and where the development is needed to meet the aims of the development plan, it is for the local authority and other public sector agencies to decide what is to be the balance of contributions made by developers and by the public sector infrastructure providers in its area supported.

### Regional Policy

The East Midlands Regional Plan (adopted March 2009) provides the development strategy for the East Midlands up to 2026. Policy 1 seeks to secure the delivery of sustainable development. Policy 2 promotes better design. Policy 3 directs development towards urban areas with Hinckley being defined as a Sub-Regional Centre and the main focus for development at the local level. Policy 3 also states that in assessing the suitability of sites for development priority should be given to making the best use of previously developed land in urban or other sustainable locations, contributing to the regional target of 60% of additional dwellings on previously developed land. Policy 13a sets out targets for housing provision (2006 - 2026). Policy 14 sets out the regional priorities for affordable housing in line with Housing Market Assessment for the area. Policy 43 sets out regional transport objectives across the region. Policy SRS3 states that new housing provision in Hinckley and Bosworth will be made at the level of 450 dwellings per annum and be located mainly at Hinckley.

### Local Development Framework Core Strategy (2009)

Policy 11 requires all new development to support local services in Barlestone through (inter alia):-

- i) Allocating land for a minimum of 40 new homes
- ii) Support the improvement of GP facilities through developer contributions
- iii) Address deficiencies in open space.

Policy 15 requires all new development of 4 dwellings or more in Barlestone to deliver 40% affordable housing.

Policy 16 seeks to ensure that all new residential developments provide a mix of types and tenures appropriate to the applicable household type projections.

Policy 19 seeks to ensure that all residents have access to sufficient, high quality and accessible green spaces and play areas.

Policy 24 seeks to ensure that all new homes in Barlestone will be constructed in accordance with the Building a Greener Future. This standard is inline with Building Regulations and therefore the development will automatically be constructed to this continually evolving standard.

### Adopted Hinckley and Bosworth Local Plan (2001)

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

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 EMP1b states that the Local Planning Authority will consider proposals for other employment activities or alternative uses of identified sites on their merits in the context of the appropriate design policies of the plan. EMP1b sites are generally considered to be acceptable employment locations.

Policy RES5 states that on sites 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 BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, 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 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.

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.

#### Supplementary Planning Guidance / Documents

Supplementary Planning Guidance: New Residential Development provides a series of standards that new residential development should achieve in respect of design, layout, impact on neighbours and amenity space.

Supplementary Planning Document: Play and Open Space provides a framework for the provision of play and open space and financial contributions to support the requirements of Policy REC3.

Supplementary Planning Document: Affordable Housing provides the background and approach to the Borough Councils delivery of affordable housing.

#### Other Material Policy Guidance

The Employment Land and Premises Study conducted by consultants on behalf of the Borough Council has reappraised the importance of existing employment land and premises and recommended that this site should be retained as an EMP1b.

The Council's Adopted S.106 Protocol, which seeks to enable a flexible approach in the delivery of developer contributions during the recession.

#### **Appraisal:-**

The only issue for consideration here is whether the earlier reason for refusal for the identical scheme has been overcome through the information submitted in this revised application. The earlier application was considered to be acceptable in terms of the loss of the employment site, siting, design, impact on neighbours and highway safety.

The committee report relating to the earlier refusal is appended to this report for reference.

The earlier application was refused for the following reason:

In the opinion of the Local Planning Authority, the lack of provision of affordable housing is contrary to Policies RES3 and IMP1 of the adopted Hinckley and Bosworth Local Plan, and the Borough Council's Supplementary Planning Document on Affordable Housing (April 2008).

In line with Policy 15 of the Core Strategy the development should provide 3 affordable homes.

The current application fails to provide any affordable housing but seeks to demonstrate that there are other material considerations that weigh in favour of the proposal that mean that planning permission should be granted. The matters raised by the applicant are identified and discussed below.

#### Viability

The application's accompanying viability appraisal demonstrates that the development, with the payment of play and open space and healthcare contributions will produce a net profit (before overheads) of 10.84%. The appraisal has been verified by the Council's Viability Consultant who confirms that the position is "well below what would be considered a reasonable market rate at the moment, so it would be difficult to argue there is any 'surplus profit' in the case presented".

The appraisal states that viability has been prepared on a very realistic basis with no scope to introduce material contingencies to cover unforeseen circumstances during the construction. The appraisal concludes that there is no scope to provide an affordable housing contribution by on site provisions or a financial payment.

The issue of the economic viability of a proposal is a material consideration and is increasingly becoming a matter that planning authorities are being required to consider. The general approach to viability must be considered alongside the guidance contained within Circular 05/05 and more recently in the Community Infrastructure Levy Regulations 2010 (CIL).

The Circular advises, inter alia, that in some cases, perhaps arising from different site specific circumstances, it may not be feasible for the proposed development to meet all the requirements set out in local, regional and national planning policies and still be economically viable.

CIL further confirms that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. In such cases, and where the development is needed to meet the aims of the development plan, it is for the local authority and other public sector agencies to decide what is to be the balance of contributions made by developers and by the public sector infrastructure providers in its area supported.

The application of the Circular guidance and CIL has recently been subject to a number of planning appeals and these appeal decisions confirm how Inspectors are determining applications on viability grounds. In short, where applicants can reasonably demonstrate that a development cannot afford developer contributions due to the economics of the development, the condition of the property market and the construction industry as a whole, planning decisions should reflect this and schemes should not be refused on this ground.

The Council's approach to viability is continually evolving. In December 2009 Members resolved to adopt a protocol that enables a flexible approach in the delivery of development where it is demonstrated that the scheme is unviable. This protocol is currently being reviewed however the recommendation is that the protocol remains in place due to the success it has had on the delivery of key development schemes in Hinckley.

In considering the current proposal against the protocol, it is evident that whilst the site is brownfield in nature and viability cannot be demonstrated, the redevelopment of the site is not considered to be one of where significant planning gains are available, which are seen as a priority for immediate delivery and therefore the scheme fails to meet the requirement for reduced contributions.

Notwithstanding the failure of the scheme to satisfy the requirement of the Council's S.106 protocol in terms of planning gains, the proposal must still be carefully considered alongside the statutory position of Circular 05/05 and the requirements of Policy IMP1 of the adopted Local Plan. In this case, the proposal and its verified un-viability, cannot afford the provision of any affordable housing without resulting in an economic loss. The scheme is therefore compliant with the requirements of Circular 05/05 and should be afforded officer support in this respect.

#### The Fallback Position of the Earlier Planning Permission

The application and the accompanying supporting statement seeks to confirm that the presence of the extant planning permission (without any affordable housing contribution) at the site is material consideration in the determination of the current application. This is commonly referred to as the applicant's fall back position.

The fall back position relates to the extant 2007 planning permission (07/00485/FUL) which was approved before the adoption of the Supplementary Planning Document on Affordable Housing and therefore does not include any affordable housing provision (as the requirement was 20% provision on schemes for 15 dwellings and above). The extant 2008 planning permission (08/00982/OUT) was granted following the adoption of the Supplementary Planning Document but did not include any affordable housing provision due to an oversight. Both of these planning permissions pre-date the adoption of the Core Strategy and the requirements of Policy 15 which supersedes the requirements of the Affordable Housing SPD.

In further support of this point the applicant has sought the opinion of Counsel who confirms that the presence of an extant planning permission is an important and significant material consideration.

The applicant is correct in so far as the presence of an extant planning permission is a material consideration; however the amount of weight that should be attached to this is a matter for the planning authority to decide.

In this case there has been a significant change in planning policy since the determination of the earlier extant 2008 planning permission. The Council has now adopted its Core Strategy



which has a robust and thoroughly tested affordable housing policy, which needs to be proportioned significant weight in the determination of this application.

Whilst the fall back position of the two earlier planning permissions is a material consideration, the requirements of Policy 15 of the Core Strategy is also. In this case, and with the support of the evidence base of Policy 15, it is reasonable to conclude that Policy 15 carries a greater weight in the determination of this application.

#### Other Developer Contributions

The submitted legal agreement proposes the payment of a play and open space developer contribution in line with requirements of Policy REC3 of the Adopted Local Plan and the Supplementary Planning Document on Play and Open Space.

The site is located within 400 metres of a local open space at Glebe Road and Bosworth Road, and in accordance with Policy REC3 the developer contribution is sought in respect of the ongoing development and maintenance of these facilities, in line with the guidance of the Supplementary Planning Document on Play and Open Space. As the scheme results in a net gain of 7 dwellings a total figure of £8755.60 is required.

Furthermore, in line with the requirements of Policy 11 of the Core Strategy, the agreement proposes a developer contribution towards the improvement in healthcare facilities (in accordance with the Primary Care Trust tariff) in Barlestone. This contribution is offered by the developer as a goodwill gesture in support of the proposal and in an attempt to balance the lack of any affordable housing provision as part of the development.

The accompanying viability assessment demonstrates that the scheme can reasonably afford this additional cost even though the developer's profit margin has reduced further from the earlier refused application. This fact is recognised by the Council's Viability Consultant; however the applicant considers the development viable on this basis.

#### Anti Social Behaviour

The application states that the site is subject to anti social behaviour by way of the site being accessed without consent and being used for the drinking of alcohol by under age persons. The applicant believes this to be to the detriment of the surrounding residents.

The site's position set back from Barton Road and being bound on all sides by residential development with high hedges and fences, means there is limited natural surveillance of the site.

From a site inspection it is clear that the site is being used in an unauthorised manner and there is evidence of forced entry and anti social behaviour.

The presence of anti social behaviour is a material consideration in the determination of a planning application, and should therefore be apportioned appropriate weight. In this case there is clear evidence of the unauthorised use of the site given the site's concealed position and extensive boundary screening. The site is surrounded by residential properties and the presence of such behaviour is likely to be to the detriment of residential amenity. The redevelopment of the site as proposed would remove the vacant use of site and therefore eradicate the anti social behaviour that currently exists.

#### 5 Year Housing Land Supply

The Borough Council is currently unable to secure a five year housing land supply of deliverable and developable sites based upon the most up to date (1st April 2010) East Midlands Regional Plan monitoring figures. These indicate a cumulative shortfall of 303.

Since the previous application, the Local Development Framework: Core Strategy has been adopted and allocates a minimum of 40 dwellings within Barlestone. Whilst it is the intention that these dwellings will be delivered on allocated sites through the Site Allocations Development Plan Document, this document is yet to be produced and in the mean time windfall sites such as that presented in this application must be considered on their merits.

The application seeks to demonstrate that the extant planning permission for 7 dwellings at the site has been previously accounted for in the Council's housing delivery figures. The applicant has confirmed that there is a limited intention to construct the extant scheme at the site and therefore without the planning permission for the current scheme deficiency of a further 7 dwellings will occur.

Whilst the applicant may have limited intent in delivering the scheme, the previously consented 7 dwellings are recorded as commitments (by virtue of them having permission) in the current accounting period and are therefore contributing to the Borough's land supply position.

In these circumstances, and given the weight placed on maintaining a rolling five-year housing land supply as set out in PPS3 it is considered that the provision in this instance is a material consideration that should be apportioned significant weight.

### Conclusion

Whilst there is a recognised need for affordable housing in Barlestone and the proposal fails to provide any affordable housing provision as required by Policy 15 of the Core Strategy, the proposal and the Council's decision must be in line with national CIL Regulations and in particular Circular 05/05. The application demonstrates that the development cannot afford to provide any affordable housing and this position has been independently verified. The application also demonstrates that the site is subject to a degree of anti social behaviour and that scheme will maintain the Council's 5 year land supply position.

In considering the developments viability, the applicant has identified that whilst not being able to viably provide any affordable housing due to the financial cost of doing so, the development can afford a lesser financial developer contribution. In this respect and in line with the requirements of Policy 11 of the Core Strategy an economically viable financial contribution is offered towards healthcare provision within Barlestone. Such a contribution is a much smaller amount of money than the value of the required affordable homes whilst is not a formal requirement of a proposal of this size, is a pragmatic approach to the viability of the proposal and the needs of the community that can be justified in light of the CIL Regulations.

Returning to the position of the earlier refusal of planning permission at the site, the application now demonstrates that there are other material considerations that are relevant to the proposal that should be apportioned weight in the decision making. It is a matter of fact that the scheme is deficient in its affordable housing provision, but in carefully considering the anti social behaviour issues arising through the sites current use, the additional developer contribution and other recent appeal decisions on similar proposal, the development results in other planning gains and should therefore be permitted.

When considering viability issues it is reasonable to accept that the scheme should be commenced within a reasonable time to ensure that its viability justification is reflective of the

current market and development conditions. On this basis the accompanying legal agreement will contain a clause requiring another viability appraisal to be submitted if development has not commenced within one year and annually thereafter of the grant of this outline planning permission.

**RECOMMENDATION:- That subject to no significant material observations being received by the end of the consultation period expiring on 10 June 2010, the Deputy Chief Executive (Community Direction) shall be granted delegated powers to grant outline planning permission for the development subject to the following conditions and 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 and healthcare contributions. Failure to do so by 8 July 2010 may result in the application being refused:-**

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in general accordance Circular 05/05 with the development plan and would not be to the detriment of visual or residential amenity, highway safety or any protected species. The development will provide the redevelopment of this unused site and which will provide a significant benefit to the amenity of the nearby residents.

Hinckley & Bosworth Borough Council Local Plan (2001) :- IMP1, EMP1, RES5, BE1, T5, REC3

Hinckley & Bosworth Borough Council Core Strategy (2009):- Policies 11, 15, 16, 19, 24

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

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

- 3 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: 1:150 Site Location Plan, plans 909-130, 909-131, 909-132, 1726/100.
- 4 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.

**Reasons:-**

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

**Appendix A: Previously Considered Application**

**Item:- 02**  
**Reference:- 09/00432/OUT**  
**Applicant:- Rellum Estates LLP**

**Location:- Hosiery Factory Barton Road Barlestone Nuneaton Leicestershire**

**Proposal: CONSTRUCTION OF SEVEN DWELLINGS (AMENDED SCHEME)**

**Introduction:-**

This is an outline application for a residential development of seven 4 bed roomed detached dwellings on the site of a former hosiery factory accessed by a private drive from Barton Road. The application seeks approval for access, appearance, layout and scale with landscaping reserved for approval at a later date. The application is a revised submission following an earlier application in 2008 for a similar development.

The site is currently an unused factory and is surrounded by residential development to the north, south and west. To the east is the access driveway serving the football ground from Barton Road. Adjacent to the access drive to the east is Barlestone Cemetery.

The layout proposed includes a row of properties fronting the access drive and a row facing north towards the adjacent residential development. The properties proposed are two and a half storey, of simple vernacular design, with brick elevations and steep pitched tiled roofs with dormers. All dwellings have integral garages and one parking space in front of the garage.

The application is accompanied by a design and access statement detailing the proposals design concept and its differences from the previous scheme. The application is also accompanied by a development appraisal which provides details of the development costs which confirms that the development can not afford to make an affordable housing contribution.

### **History:-**

08/00982/OUT	Construction of seven dwellings (amended scheme including alterations to second floor layout).	Approved	11.12.08
08/00324/COU	Change of use from factory to a church	Approved	14.08.08
07/00485/FUL	Construction of seven dwellings	Approved	19.06.07
06/00827/OUT	Demolition of existing factory and erection of four dwellings with associated parking and access	Approved	22.01.07

### **Consultations:-**

No objection subject to conditions has been received from:-

Severn Trent Water  
Head of Business Development and Street Scene Services  
Head of Community Services (Pollution)

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

Director of Highways, Transportation and Waste Management (Highways)  
Directorate of Chief Executive (Ecology)  
Environment Agency  
Severn Trent Water  
Barlestone Parish Council  
Head of Community Services (Land Drainage)  
Neighbours  
Site notice displayed.

### **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 complements neighbouring buildings and the local area more generally in terms of scale, density, layout and access. Paragraph 47 sets out 30 dwellings per hectare as the national indicative minimum density.

### Local Plan Policies

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

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

Policy RES5 states that on sites 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 BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, 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 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.

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.

### Other Guidance

The Play and Open Space Supplementary Planning Document provides further guidance to developers in respect of the different types of open space and the level of financial contributions required.

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 Borough Council's Supplementary Planning Guidance on Affordable Housing sets the Council's affordable housing policy and threshold for the provision of affordable dwellings in the Borough. Barlestone is classed as a rural village where the affordable housing requirement for sites of 6 or more dwellings is 40%.

## **Appraisal:-**

### Principle of Development

The site is within the settlement boundary and adjacent to existing residential properties in a sustainable urban location. Residential development of the site is therefore considered acceptable in principle, subject to the layout, density, design and scale being satisfactory.

### Layout, Siting and Design

The erection of seven dwellings on this 0.19 hectare site would provide a density of 37 dwellings per hectare. This would be within government guidelines and appropriate in this location.

The proposed layout has two distinct elements, a row of detached dwellings facing east fronting the access drive and a row of detached dwellings facing north running at a right angle to the access drive. This arrangement results in a poorly laid out development and fragmented built form that creates an incongruous and characterless street scene of large detached dwellings. The resulting built environment would be dominated by the scale of the dwellings and the restricted spaces fronting the dwellings.

Whilst each dwelling has its own small private rear garden this is considered to be an acceptable size given the adjacent housing development.

The dwellings are all of 2½ storey design where the third floor is located within the roof space. The use of brick elevations and tiled roofs allows the proposal to assimilate well with the surrounding residential areas where similar dwellings exist already.

The recent extant planning permission provides a better design and layout than the current scheme. The constrained nature of the site and the design and density of the previous scheme reinforces the view that a development of terraced dwellings, where distinct built forms can be created, results in a more sustainable use of land with higher quality design.

### Impact on Neighbours

The proposal, by way of the distance between the elevations of the proposed dwellings and those of existing dwellings to the north, fails to satisfy the separation distances set down in the Council's Supplementary Planning Guidance. However, the separation distances available are the same as those previously approved under the earlier extant planning permissions at the site and are consistent with the separation distances achieved at the adjacent David Wilson Homes development to the north and west. There are a number of existing boundary trees that are located along the site's north boundary which offer useful screening of views and are attractive landscape features in this urbanised location. With the

retention of these trees, the impact of the development being closer to existing dwellings is mitigated and is considered to result in a satisfactory arrangement.

Part of the private drive into the site runs adjacent to the sites northern boundary and the adjacent dwellings to the north. Whilst this may be considered to result in an unsatisfactory arrangement an access drive in this location has been previously approved and the existing use of the site as a factory must be considered alongside any possible impact from vehicle movements. The existing factory is not subject to any planning restrictions and therefore could operate in such a way that it could have a severe impact on the amenities of the adjacent occupiers. Accordingly, an access in this location serving three dwellings, with careful perimeter landscaping and boundary treatments would result in an improved situation that would not be to the detriment of residential amenity.

### Highways and Access

Each dwelling has an integral garage and a parking space totalling two spaces per dwelling. The Highway matters will be reported as a late item following the receipt of the formal observations of the Director of Highways, Transportation and Waste Management (Highways).

### Economic Viability and Developer Contributions

The Council's adopted Supplementary Planning Document on Affordable Housing requires the provision of 40% affordable housing on all development over 6 dwellings in rural villages such as Barlestone. This equates to the provision of three dwellings. This Supplementary Planning Document was adopted in April 2008 and is a material consideration in the determination of any planning application. The Council requires the tenure of these dwellings to be for social rent.

The application is accompanied by a confidential development appraisal which demonstrates that the development, with the payment of play and open space contributions will produce a net profit (before overheads) of 10.31%. The appraisal states that viability has been prepared on a very realistic basis with no scope to introduce material contingencies to cover unforeseen circumstances during the construction. The appraisal concludes that there is no scope to provide an affordable housing contribution by on site provisions or a financial payment.

In support of the viability appraisal provided the applicant has submitted an additional statement confirming that as the Council has previously granted permission for a similar scheme at this site without any affordable housing provision and that this permission is extant, the Council must consider this as a material consideration in the determination of this application. The applicant urges the Council to be consistent in its decision making and not require the provision of any affordable housing as part of this development.

The extant 2007 planning permission (07/00485/FUL) was approved before the adoption of the Supplementary Planning Document and therefore does not include any affordable housing provision as the requirements was 20% provision on schemes for 15 dwellings and above. The extant 2008 planning permission (08/00982/OUT) was granted following the adoption of the Supplementary Planning Document but did not include any affordable housing provision due to an oversight. Whilst provision should have been secured as part of this permission, it would be incorrect to approve this scheme without provisions as it exacerbates the error.

To verify the applicants position regarding viability, the information contained within the appraisal has been inputted into the Council's Viability Toolkit. The toolkit assists in appraising the viability of residential schemes through the input of key financial data supplied



by the applicant and is regularly updated with local build costs, sales values and Borough specific data. The results indicate that the site will be developed at a loss should 40% affordable housing provision be provided and therefore confirms the developer's financial position.

In situations such as this where it is evident that a development cannot achieve the Council's affordable housing requirements careful consideration needs to be given to the merits of the application coming forward without any provision and how this will sit alongside affordable housing needs in the immediate area. In this case there is a recognised need for small affordable housing units in Barlestone.

The applicant is correct in so far as the existence of an extant planning permission is a material consideration, however all material considerations must be carefully considered and balanced in light of the proposal and the development plan. In this case it is considered that the presence of an adopted affordable housing policy (within the Supplementary Planning Document), the current state of the economy and the housing market, and the need for affordable homes within Barlestone, carries a greater weight than the presence of the extant planning permissions at this site. Accordingly, the development should be required to provide the affordable housing provision as confirmed above.

In line with the viability appraisals modelling, a financial contribution towards the provision and maintenance of informal public open space would be required to comply with policy REC3 of the adopted Hinckley and Bosworth Local Plan and the Council's Supplementary Planning Document on Play and Open Space, together with the objectives of the Green Space Strategy and the Parish Public Open Space Quantity/Accessibility Audit 2007. In this case a financial contribution of £1250.80 per dwelling would be required in lieu of on-site provision for Glebe Road and Bosworth Road recreational sites. The applicant has agreed to pay this developer contribution and has included this within the submitted viability appraisal.

### Conclusion

There is a recognised need for affordable housing in Barlestone and the proposal fails to provide any affordable housing provision as required by the adopted Affordable Housing Supplementary Planning Document. Whilst the application demonstrates that the development cannot afford to provide any affordable housing it is the opinion of officers that the need should be met. With a fully adopted affordable housing policy and evidence base viability assessment, the application should be refused in these circumstances.

The extant planning permissions for a residential development at the site remain and are not affected by this decision.

**RECOMMENDATION:- That the Director of Community and Planning Services be granted delegated powers to refuse planning permission for the reason set out below, together with any other reasons he deems relevant arising from any further objections received by the end of the consultation period (27 October 2009):-**

### **Reasons:-**

- 1 In the opinion of the Local Planning Authority, the lack of provision of affordable housing is contrary to Policies RES3 and IMP1 of the adopted Hinckley and Bosworth Local Plan, and the Borough Council's Supplementary Planning Document on Affordable Housing (April 2008).

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

1 List of plans used in the determination of this application:- 1726/100, 909-101, 909-130, 909-131 and 909-132 Rev A.

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

## **PLANNING COMMITTEE LATE ITEM**

**Committee Date:-** 27 October 2009

**Item Number:-** 02

**Reference:-** 09/00432/OUT

**Applicant:-** Rellum Estates LLP

**Location:-** Hosiery Factory Barton Road Barlestone Nuneaton Leicestershire

### **Consultations:-**

Barlestone Parish Council objects to the application on the grounds of insufficient access, overlooking and privacy.

Director of Highways, Transportation and Waste Management (Highways) raises no objection subject to conditions.

Head of Community Services (Land Drainage) raises no objection subject to conditions.

Barlestone St Giles Football Club objects to the application because of the dangers arising from additional traffic using the access drive.

Two neighbour objection received on grounds of overlooking, inadequate access, increased traffic, drainage and provision for recycling facilities.

### **Appraisal:-**

#### Highways

Notwithstanding the neighbour comments received, the highway issues relevant to this proposal have been formally considered by the Director of Highways, Transportation and Waste Management (Highways) who has reported that there is no objection to the proposal subject to appropriate conditions be imposed. Whilst the suggested conditions do not address the specific concerns of the neighbours, the Highways comments, by virtue of their informed nature, must be attached a greater weight in the decision making process. Furthermore, the highway matters have been considered twice previously in the 2007 and 2008 application and therefore the principle for the development and increased use of the access has been established.

### **Recommendation:-**

No change to recommendation.

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

**PLANNING COMMITTEE – 8 JUNE 2010**

**REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)**  
**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 Kite against a split decision on an application for works to 8 lime trees and 1 holly tree protected by a Tree Preservation Order (09/00963/TPO) at 5 The Courtyard, Higham Lane, Stoke Golding (Written Representation).

3.1.2 Appeal by Mr H Alti against the decision to restrict the hours of opening and grant a temporary planning permission (09/00735/CONDIT) at 7 The Horsefair, Hinckley (Written Representation).

3.1.3 Appeal by Mr C Davey against refusal of planning permission for the erection of seven dwellings (amended scheme) (09/00432/OUT) at 30a Barton Road, Barlestone (Written Representation).

3.1.4 Appeal by Mr E E Thompson against the refusal of planning permission for the erection of a dwelling (09/00713/FUL) at 30 Main Road, Bilstone (Written Representation).

3.1.5 Appeal by Mr S N Dham against the refusal of planning permission to change the use of an existing dwellinghouse to a place of worship and teaching, day centre, living accommodation and formation of parking area (09/00767/COU) at Stretton House, Watling Street, Burbage (Public Inquiry).

3.2 Appeals Determined

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

3.1.2 The Inspector considered that the main issue in this case was whether the proposed development required planning permission or constituted permitted development under the terms of the Town and Country Planning (General Permitted

Development) Order 1995, as amended. The relevant standard of proof is the balance of probability, and the burden of proof is on the appellant. The appellant must show that the development would have been lawful at the date of the application.

3.1.3 The appellants' case was that the proposed development would be permitted under the terms of Classes B and G in Part 1 of Schedule 2 to the GPDO. The dormer extension was permitted by Class B, relating to additions or alterations to the roof, while the removal of the chimney and installation of the flues was covered by Class G, relating to the installation, alteration or replacement of a chimney, flue or soil and vent pipe on a dwelling-house. It was claimed that the development would not exceed the permitted development limitations in Class B or G in Part 1 of Schedule 2 of the GPDO.

3.1.4 The Council refused to grant a LDC on the grounds that the proposal would not be permitted under the restrictions in Class B.1 (d)(ii) which states that development is not permitted by Class B if it would consist of the installation, alteration or replacement of a chimney, flue or soil and vent pipe. The proposed rear dormer, which included the installation of three flues on the roof of the proposed extension was therefore not, in the Council's view, development permitted under Class B and a specific grant of planning permission would therefore be required. Class B of the Order specifically excludes from permitted development a development which enlarges the property by an addition or alteration to the roof and which also installs, alters or replaces a chimney, flue or soil and vent pipe. In the Council's opinion it cannot have been the intention of the Secretary of State when drafting the Order to allow this exclusion to be circumvented by the application of a second parasitic class of the Order (Class G) to the primary class (Class B).

3.1.5 The Inspector considered that the Council's decision to refuse the LDC was against the intention of the 2008 amendments to the GPDO. He took the view that if development is not permitted by Class B but it is permitted under Class G, as in this case, it should not be ruled as not permitted overall just because of the restrictions at Class B.1(d)(ii), since Class G grants permitted development rights for flues, chimneys etc.

3.1.6 **Inspectors Decision**  
**Appeal allowed (Officer decision)**

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

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

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

5.1.1 None

6. **CORPORATE PLAN IMPLICATIONS**

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

- Safer and Healthier Borough.

7. **CONSULTATION**

None

8. **RISK IMPLICATIONS**

None

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

None

10. **CORPORATE IMPLICATIONS**

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

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

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Background papers: Appeal Decisions

Contact Officer: Louise Forman ext 5682

**PLANNING COMMITTEE - 8 JUNE 2010**

**REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)**

**RE: APPEALS PROGRESS**

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**1. PURPOSE OF REPORT**

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

**2. RECOMMENDATION**

- 2.1 The report be noted.

**3. FINANCIAL IMPLICATIONS**

- 3.1 None

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Background Papers:

Contact Officer: Simon Wood, extension 5692

## PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 28.05.10

**WR - WRITTEN REPRESENTATIONS**

**IH - INFORMAL HEARING**

**PI - PUBLIC INQUIRY**

FILE REF	CASE	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
10/00010/PP	RW	09/00767/COU	PI	Schakhand Nanak Dham	Stretton House, Watling Street, Burbage	Start Date Questionaire Third Party Notification Statement of Case	20.05.10 03.06.10 03.06.10 01.07.10
10/00009/PP	DK	09/00713/FUL	WR	Mr EE Thompson	Adj 30 Main Road, Bilstone	Start Date Statement of Case	14.05.10 25.06.10
10/00008/PP	JH	09/00432/OUT	WR	Carl Davey	30a Barton Road, Barlestone	Start Date Statement of Case	10.05.10 21.06.10
10/00007/COND	LF	09/00735/CONDIT	WR	Mr H Alti	7 The Horsefair Hinckley	Start Date Statement of Case	07.05.10 18.06.10
10/00006/PP	DP	09/00963/TPO	WR	Mr Kite	The Court Yard, Higham Lane, Stoke Golding	Start Date Statement of Case	26.04.10 07.06.10
10/00005/PP	SH	09/01009/OUT	PI	Mr T McGreal (Jelson Ltd)	Land off London Road, Markfield	Start Date Final Comments Proof of Evidence Inquiry Date (3 days)	09.04.10 18.06.10 29.06.10 27.07.10
10/00003/PP	SH	09/00995/COU	IH	Mr P Finney	Land Heath Road Bagworth	Start date Hearing Date	16.03.10 07.07.10
10/00004/PP	LF	09/00997/FUL	WR	Timothy Payne	7 Stockwell Head Hinckley	Start Date	17.03.10

10/00001/PP	LF	09/00703/FUL	WR	Mr T Barton	23 Cherry Orchard Estate Higham on the Hill	<i>Start Date</i> Awaiting Decision	11.01.10
09/00017/ENF	JC/ES	07/00031/BOC	PI	Mr P Godden	Land at Upper Grange Farm Ratby Lane Markfield	<i>Start Date</i> Statement of Case Public Inquiry (4 days) Temporarily Suspended	06.11.09 18.12.09 09-12.03.10

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

**Rolling 1st April 2010 / 30th April 2010**

**Planning**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision		
					Allow	Spt	Dis	Allow	Spt	Dis
3	2		1		1	1		1		

**Enforcement**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn