

Date: 25 October 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)

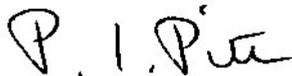
Dear Councillor

There will be a meeting of the **PLANNING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **TUESDAY, 2 NOVEMBER 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**  
**2 NOVEMBER 2010**  
**A G E N D A**

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 28 September attached marked 'P24'.

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

To hear any questions in accordance with Council Procedure Rule 10.

6. DECISIONS DELEGATED AT PREVIOUS MEETING

Deputy Chief Executive (Community Direction) 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 'P25' (pages 1 – 118).

RESOLVED

8. BARWELL CONSERVATION AREA STATEMENTS AND MANAGEMENT PLANS

Report of the Deputy Chief Executive (Community Direction) attached marked 'P26' (pages 119 - 123).

Conservation Area Appraisal, Appraisal Plan, Long Term Strategy Management Plan and Public Comments on the Barwell Conservation Areas are available in the Members' room and can be viewed on the Council's website.

- RESOLVED 9. APPEALS LODGED AND DETERMINED
- Report of the Deputy Chief Executive (Community Direction) attached marked 'P27' (pages 124 – 130).
- RESOLVED 10. APPEALS PROGRESS
- Report of the Deputy Chief Executive (Community Direction) attached marked 'P28' (pages 131 – 133).
- RESOLVED 11. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY
- RESOLVED 12. MATTERS FROM WHICH THE PUBLIC MAY BE EXCLUDED
- To consider the passing of a resolution under Section 100A(4) of the Local Government Act 1972, excluding the public from the undermentioned item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 2 and 10 of Part I of Schedule 12A of the Act.
- RESOLVED 13. PLANNING ENFORCEMENT ACTION
- Report of the Deputy Chief Executive (Community Direction) attached marked 'P29' (pages 134 – 164).

**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.**

**PLEASE NOTE THAT THE MEETING MAY BE RECORDED.**

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL**

**PLANNING COMMITTEE**

**28 SEPTEMBER 2010 AT 6.34 PM**

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

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

In accordance with Council Procedure Rule 4.4 Mr DC Bill also attended the meeting

Officers in attendance: Mrs S Fryer, Ms T Miller, Miss R Owen, Mrs E Page, Mr M Rice, Ms S Smith and Mr S Wood.

232 **APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Mr K Nichols and Mr LJP O'Shea with the substitution of Mr Cartwright for Mr O'Shea authorised in accordance with Council Procedure Rule 4.3.

233 **MINUTES (P18)**

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

**RESOLVED** – the minutes of the meeting held on 31 August 2010 be confirmed and signed by the Chairman.

234 **DECLARATIONS OF INTEREST**

The following Members declared a personal interest in application 10/00642/OUT: Mr Bannister, Mr Bown, Mr Crooks, Mr Gould, Mrs Hall, Mr Inman, Mr Joyce, Mr Mayne and Mrs Witherford. Mr Hall declared a personal and prejudicial interest in the same application.

235 **DECISIONS DELEGATED AT PREVIOUS MEETING**

The Head of Planning reported on the following applications which had been delegated at the meeting on 31 August:

- (i) 10/00470/FUL – it was reported that the decision had been issued on 9 September 2010;
- (ii) 10/00386/FUL – it was reported that the decision had been issued on 13 September 2010;

- (iii) 10/00401/FUL – it was reported that the decision had been issued on 6 September 2010;
- (iv) 10/00514/OUT – it was reported that the decision had been issued on 2 September 2010;
- (v) 10/00557/FUL – it was reported that the decision had been issued on 1 September 2010;
- (vi) 10/00561/EXT – it was reported that the decision had been issued on 15 September 2010.

236 LOCAL DEVELOPMENT FRAMEWORK: AFFORDABLE HOUSING SUPPLEMENTARY PLANNING DOCUMENT; RURAL NEEDS SUPPLEMENTARY PLANNING DOCUMENT; RATBY VILLAGE DESIGN STATEMENT (P20)

The Committee received a report which sought approval to consult on the Affordable Housing Supplementary Planning Document (SPD), the Rural Needs SPD and the Ratby Village Design Statement SPD.

In response to a question, Members were reminded that the issue of viability assessments with regard to affordable housing was covered in the document. Concern was also expressed that the four-week consultation period was very short, however it was acknowledged that this was in line with the minimum statutory requirements and would ensure that the timetable was adhered to.

Members discussed the difficulty in getting some Parish Councils to engage with housing needs surveys and the need to discuss the sustainability of rural communities with local councils and Members.

RESOLVED - the undertaking of a four-week period of consultation on the Affordable Housing SPD, the Rural Needs SPD and the Ratby Village Design Statement SPD from 11 October 2010 to 5 November 2010 be approved.

237 REQUEST FOR HIGHWAY WEIGHT RESTRICTIONS

Further to a suggestion at the previous meeting during discussion on Desford Lane, Kirby Muxloe, it was reported that a letter had been received from Leicestershire County Council which stated that they did not support the imposition of a formal weight restriction on Desford Lane.

A Member suggested changing the HGV route and it was agreed that this would be fed back to the County Council.

238 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P19)

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) 10/00505/OUT – Residential Development (outline – access only), North Warwickshire and Hinckley College, London Road, Hinckley – North Warwickshire & Hinckley College

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

RESOLVED – the Deputy Chief Executive (Community Direction) be granted delegated powers to grant 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 111 of the Local Government Act 1972 towards affordable housing, public transport, junction improvements and contributions to the provision and maintenance of public play and open space facilities and education being agreed. Failure to do so by 20 October 2010 might result in the application being refused.

Having declared a personal and prejudicial interest in the following application, Mr Hall left the meeting at 7.10pm.

- (b) 10/00642/OUT – Residential Development (outline), Land off Eastwoods Road, Hinckley – Brenmar Developments (Hinckley) Ltd

It was moved by Mr Boothby that the application be refused. In the absence of a seconder the motion was not put to the vote.

Members expressed concern with regard to the risk of cars reversing out of the site. It was moved by Mr Bown and seconded by Mr Sutton that a condition be added to ensure a turning circle be included within the site to allow egress in a forward gear.

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

RESOLVED – subject to no significant material observations being received by the end of the consultation period expiring on 29 September 2010, the Deputy Chief Executive (Community Direction) be granted delegated powers to grant outline planning permission for the development subject to the conditions contained in the officer's report and the abovementioned additional condition.

Mr Hall returned at 7.29pm and Mr Bill left at this point.

- (c) 10/00254/FUL – Change of use from agricultural land to playing fields including the erection of changing rooms and associated car parking and access, Land off Ashby Road, Osbaston – Mr GR Ingham

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

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

- (d) 10/00465/EXT – Extension of time for extant planning permission 07/00742/OUT Demolition of existing building and construction of new buildings accommodating 651 sq.m of A2 and B1 use employment space and 56 one and two bedroom warden controlled sheltered flats with associated facilities and parking, Dennis House, 4 Hawley Road, Hinckley – Cotswold Estates Ltd

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

RESOLVED – subject to the resolution of the economic viability issues of the scheme and if necessary the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 to provide affordable housing contributions and to restrict the residential units within the development to sheltered accommodation, the Deputy Chief Executive (Community Direction) be granted powers to issue a new Outline Planning Permission subject to the conditions contained in the officer's report.

- (e) 10/00565/COU – Change of use from A1 to A5, 11 Windsor Street, Burbage – Mr Cemil Yavuz

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

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

- (f) 10/00591/COU – Change of use from cow shed to shop and storage, Oak Farm, Ratby Lane, Markfield – Mr and Mrs Carl Law

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

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

- (g) 10/00627/COU – Change of use from dwelling house to dental surgery including extensions and alterations with associated parking, 18 Manor Road, Desford – Mr Hanish Chotal

Further to the additional conditions requested in the late items, it was reported that (b) and (d) should be removed as they were not required. It was moved by Mr Crooks, seconded by Mr Sutton and

RESOLVED – the application be permitted subject to the views of the Director of Environment and Transport (Highways), and the conditions in the officer's report and late items with the abovementioned two deletions.

239 CONSULTATION ON DRAFT ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS (2010) (P21)

Members received a report which informed them of the current consultation on proposed changes to the Town and Country Planning (Environmental Impact Assessment) Regulations. It was reported that as part of these changes, reasons for not requiring an Environmental Impact Assessment would have to be made public.

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

RESOLVED – the report be noted.

240 APPEALS LODGED AND DETERMINED (P22)

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

RESOLVED – the report be noted.

241 APPEALS – PROGRESS (P23)

A schedule was submitted indicating the stages that various appeals against planning decisions had reached. It was reported that the appeal with regard to 30 Main Road, Bilstone had now been dismissed. It was moved by Mr Crooks, seconded by Mr Bown and

RESOLVED – the report be noted.

(The meeting closed at 7.54pm)

**REPORT P25**

**PLANNING COMMITTEE**

**2 November 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:** 10/00661/OUT

**Applicant:** Flude Family Settlement 2004

**Location:** Land Adjacent Hinckley Golf Club Leicester Road Hinckley Leicestershire

**Proposal:** RESIDENTIAL DEVELOPMENT (OUTLINE - ACCESS ONLY)

**Target Date:** 30 November 2010

**Introduction:-**

This is an outline application for residential development at land south of Leicester Road. Hinckley. The application is a resubmission following the withdrawal of a very similar application submitted earlier this year.

The site is located between the last dwellings on the south side of Leicester Road and the Hinckley Golf Club. The principle of development along with access is the only matter for consideration at this time with layout, scale, appearance and landscaping reserved for determination at a later date. The application site extends to 8.09 hectares.

The site is formed from three existing fields that are bound by hedgerows and are currently used for agriculture. The land is farmed under a short term tenancy agreement. There is no public access within the site however a public footpath runs along the sites southern boundary linking Hinckley Golf Course and Butt Lane. There are a number of mature trees within the sites boundary hedgerows.

The site is outside the defined settlement boundary for Hinckley and is located within the defined Green Wedge.

The application proposes the erection of 232 homes from a single point of vehicular access from Leicester Road. As the application is in outline form, only the principle of development and the access are for consideration at the current time. The submitted indicative masterplan for the site shows that the site will provided extensive open space, links to the footpath to the south and a series of balancing ponds to control surface water runoff.

The application is accompanied by a Transport Assessment (TA) which details the access provision and potential vehicle movements and concludes that the proposed access arrangements are considered to be appropriate for the level of development envisaged.

A Green Wedge Review Study analyses the role of the Green Wedge and draws conclusions that the removal of the application site from the current Green Wedge designation would not conflict with the stated Green Wedge objectives.

A desktop Archaeological Report and Geophysics Survey have been carried out to look into whether the site has any archaeological interest. Trial trenching works have also been carried out and whilst not identifying any significant archaeological remains further consideration is likely to be required and is discussed further in the body of this report.

A Flood Risk Assessment has been carried out and confirms that the site is at a low risk of fluvial flooding and is considered to be acceptable development in this zone subject to careful design and mitigation. The mitigation measures proposed include:-

- a) An oversized sewer along the access road of the site that will provide 270m<sup>3</sup> of storage
- b) Improvements to the existing field drain located adjacent to Park House access road to provide 162m<sup>3</sup> of storage within a formal swale
- c) Permeable paving with a granular sub base at each of the 232 dwellings to provide 188m<sup>3</sup> of storage
- d) Three storage ponds strategically placed around the site to provide 1740m<sup>3</sup> of storage.

An Ecology Report identifies that there is no ecological interest within the site other than for the seasonal nesting of birds within the hedgerows. The report therefore recommends that any works to the hedgerows are carried out at the appropriate times of the year.

A Landscape and Visual Impact Analysis seeks to demonstrate that the development of the site will not have any adverse impact. The analysis concludes that the development will be visually contained within the site and will not encroach (visually) in the countryside beyond.

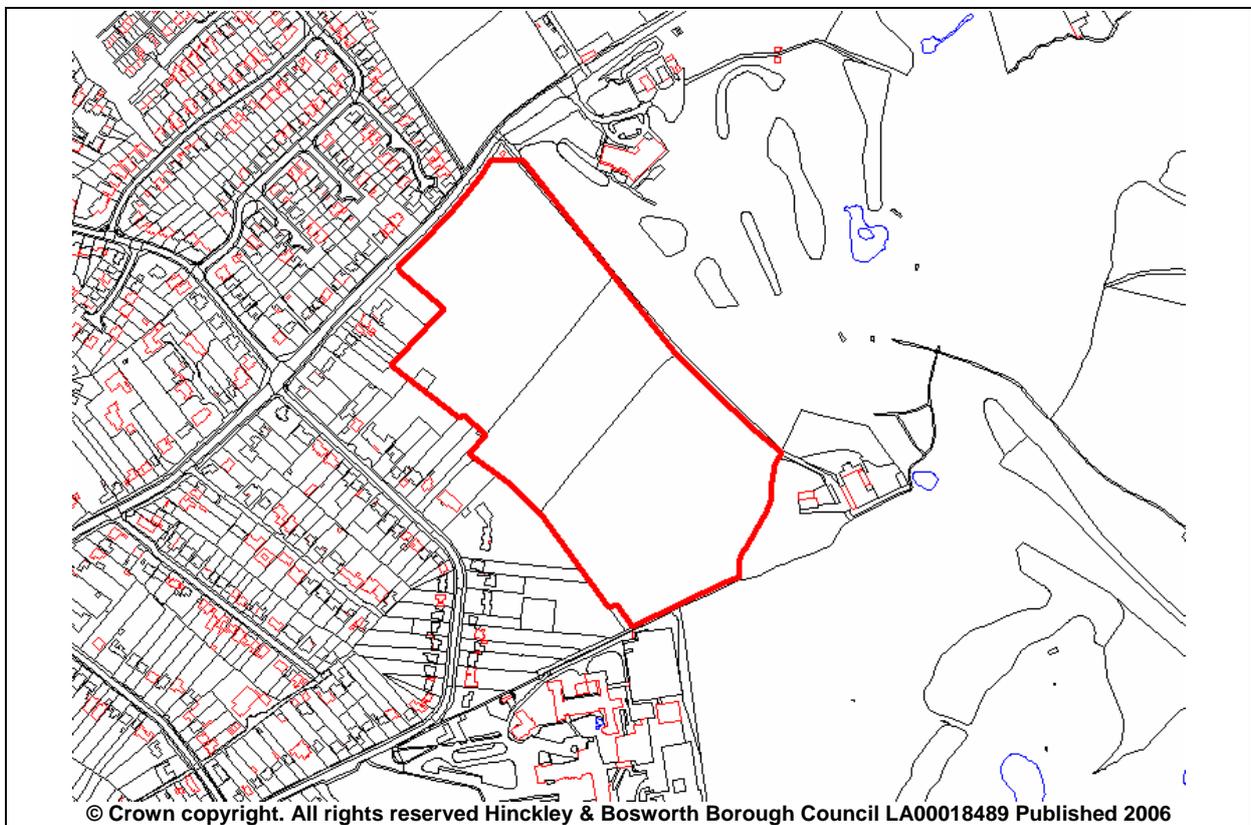
A desktop Contaminated Land Study identifies the sites history and a series of precautions that should be considered should development commence. The report does not identify any contamination.

An illustrative masterplan provides an indicative layout for the site whereby hedgerows are retained as far as possible, open space is provided within the site, access roads forming attractive frontages and enclosed spaces.

A planning statement provides an explanation of how the proposal seeks to satisfy Core Strategy Policies and 5 year land supply and provides general justification for the proposal given its countryside and edge of settlement location.

**History:-**

10/00405/OUT                      Residential Development                      Withdrawn                      11.08.10  
 (Outline – access only)



## Consultations:-

No objections subject to conditions have been received from:-

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

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

- a) Director of Children and young Peoples Services (Education)
  - 2 or more bed house £2,903.76
  - 2 or more bed flat £520.26
- b) Director of Environment and Transport (Civic Amenity)
  - Any unit £45.19
- c) Director of Adults and Communities (Libraries)
  - 1 bed unit £27.18
  - 2 bed unit £54.35
  - 3 or more bed units £63.41
- d) Director of Environment and Transport (Highways)
  - £10,000.00 for the resurfacing of footpath U10 to the south of the site.
  - £3,210.00 for the undertaking of highway works comprising the inclusion of raised and dropped kerbs to allow level access to buses for all public transport users and to support modern bus fleets with low floor capabilities.
  - £95.00 for works comprising the installation of an information display case at the bus stop.
  - £4,000.00 for the installation of a bus shelter at the bus stop
  - £3,500.00 to Leicestershire County Council for the installation of an electronic Real Time Information display at the bus stop
  - One Travel Pack (per residential unit) at £48.85 per pack.
  - The provision of 6-month bus passes (2 application forms to be included in each Travel Packs and funded by the developer); to encourage new residents to use bus services, to establish changes in travel behaviour from first occupation and promote usage of sustainable travel modes other

The Primary Care Trust raises no objection but requests a developer contribution equivalent of:-

- 1 and 2 bed unit £583
- 3 and 4 bed unit £1167
- 5 or more bed unit £1750

The Leicestershire Constabulary Crime Reduction Officer objects on sustainability grounds unless a developer contribution equivalent of:-

- Any Unit £606

Site notice and Press notice were displayed and neighbours notified.

Mr. David Tredinnick MP objects to the proposal on the following grounds:-

- a) Loss of valuable green wedge
- b) Highway safety
- c) Flooding and water management.

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

- a) loss of green wedge and countryside
- b) increased traffic and highway safety
- c) drainage
- d) noise and air pollution
- e) creation of rat-run on Stoneygate Drive
- f) impact on wildlife
- g) devaluation of property
- h) impact on infrastructure
- i) likely injury from golf balls
- j) privacy
- k) premature to Site allocations
- l) loss of green lung
- m) loss of sunlight and daylight
- n) loss of outlook
- o) site is not a preferred option
- p) loss of character
- q) overdevelopment
- r) global warming.

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

Environment Agency  
Cyclists Touring Club  
National Grid  
Leicestershire Fire and Rescue  
Head of Corporate and Scrutiny Services (Green Spaces).

### **Policy:-**

#### National Policy

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

The Planning System: General Principles, forms a supplement to PPS1. This states that "planning applications should continue to be considered in the light of current policies. However, account can also be taken of policies in emerging Development Plan Documents. The weight to be attached to such policies depends upon the stage of preparation or review, increasing as successive stages are reached".

Planning Policy Statement 3 - Housing sets out the national planning policy framework for delivering the Government's housing objectives. This document states at paragraph 12 that good design is fundamental to the development of high quality new housing.

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

should consider favourably planning applications for housing having regard to the policies within the PPS and particularly paragraph 69 which lists the following considerations:

- Achieving high quality housing.
- Ensuring developments achieve a good mix of housing reflecting the accommodation requirements of specific groups, in particular, families and older people.
- The suitability of a site for housing, including its environmental sustainability.
- Using land effectively and efficiently.
- Ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives eg addressing housing market renewal issues.

Planning Policy Statement 5 - Planning and the Historic Environment seeks to ensure that the historic environment and its heritage (including archaeological) assets should be conserved and enjoyed for the quality of life they bring to this and future generations.

Planning Policy Statement 9 - Biodiversity and Geological Conservation sets out planning policies on protection of biodiversity and geological conservation through the planning system.

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

Planning Policy Statement 23 – Planning and Pollution Control sets out national planning guidance on pollution of land, air and water.

Planning Policy Statement 25 – Development and Flood Risk aims are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk.

The 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.

### Regional Policy

The Secretary of State has indicated his intention to abolish Regional Spatial Strategies (RSS) and laid down an order on 6th July to revoke them with immediate effect, accordingly very minimal weight should be attached to the policies of the East Midlands Regional Plan.

### Hinckley & Bosworth Core Strategy (2009)

Policy 1 set the development intentions for Hinckley, which includes the Allocation of land for the development of a minimum of 1120 new residential dwellings.

Policy 6 confirms that the following land uses will be acceptable in the Green Wedge:-

- a) Agriculture, including allotments and horticulture not accompanied by retail development
- b) Recreation
- c) Forestry
- d) Footpaths, bridleways and cycle ways
- e) Burial grounds
- f) Use for nature conservation.

Any land use or associated development in the Green Wedge should:-

- a) Retain the function of the Green Wedge
- b) Retain and create green networks between the countryside and open spaces within the urban areas
- c) Retain and enhance public access to the Green Wedge, especially for recreation and
- d) Should retain the visual appearance of the area.

It also indicates that a review should be carried out of the existing Green Wedge boundaries.

Policy 15 seeks the provision of Affordable Housing on residential proposals at the rate of 20% with a tenure split of 75% social rented and 25% intermediate 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 requires all new residential development in Hinckley to be built to Code Level 3 of the Code for Sustainable Homes.

#### The Local Plan (adopted February 2001)

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

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

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

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

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

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

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

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

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

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

#### Supplementary Planning Guidance/Documents

Supplementary Planning Guidance for Residential Development  
Supplementary Planning Documents concerning Play and Open Space and Sustainable Design.  
Landscape Character Appraisal

#### Other Material Considerations

On the 27 May 2010 the Secretary of State for Communities and Local Government issued a letter to all Local Authorities indicating the Coalition Government's commitment to abolish the Regional Spatial Strategy and return decision making powers on housing and planning to local councils. The letter states that "decisions on housing supply (including the provision of travellers' sites) will rest with Local Planning Authorities without the framework of regional numbers and plans". The Secretary of State continues to confirm that the letter is to be considered as a material planning consideration in any decisions until a formal announcement is made on this matter.

The Site Allocations Preferred Options Document was subject to public consultation during 2009. The application site, whilst being put forward as an expression of interest' was not progressed as a preferred option and the application site was retained as agricultural land.

#### **Appraisal:-**

The main considerations with regards to this application are: the principle of development; the five year housing land supply; impact on the character and appearance of the countryside; access and impact on the highway network; affordable housing; developer contributions, flooding & drainage, ecology and archaeology and other matters.

There are a number of significant material considerations in the determination of this application and this report approaches and appraises each of the issues separately and then seeks to apportion material weight and draw conclusions on the proposals acceptability.

#### Principle of Development

The proposed development site is located on the eastern fringe of the Hinckley built up area adjacent to existing residential uses to the west, the John Cleveland College to the south and Hinckley Golf Club to the east. Leicester Road borders the site to the north.

The site is accessible by a choice of transport modes that provide linkages to the centre of Hinckley, being served by a continuous footway along the southern side of Leicester Road, an existing public footpath along the southern boundary of the site linking to John Cleveland College and Butt Lane, and frequent public transport connections to Hinckley town centre along Leicester Road. In this respect it is considered that the site is well situated and sustainable in location as it benefits from a range of travel options in close proximity to the site in the interests of reducing car reliance by facilitating access to alternative modes of travel.

However, the site lies outside of the settlement boundary of Hinckley as defined by the Local Plan proposals map and is therefore considered as being in countryside. Policy NE5 seeks to protect the countryside for its own sake and states that planning permission will only be granted for development that is important to the local economy, for the change of use of existing buildings or for sport and recreation. The proposed residential development does not meet any of these criteria. The site is also within the Hinckley – Barwell – Earl Shilton Green Wedge which separates the settlements.

In accordance with Policies NE5 and RES5, residential development is not supported outside the settlement boundary. The application is therefore contrary to this policy unless there are material planning considerations that indicate that it is acceptable on other grounds and that those considerations outweigh the harm caused to policy by the development.

### Green Wedge

The site falls within the green wedge as designated by policies NE3 of the Local Plan and Policy 6 of the Core Strategy. The green wedge policy seeks to resist inappropriate forms of development within the wedge; there is a commitment to review the boundaries of the green wedge. The present boundaries have been carried forward from the Local Plan Proposals Map however Policy 6 of the Core Strategy provides a commitment to review these boundaries as part of the developing Local Development Framework. At the current time this review has not been commenced and is not currently timetabled. Accordingly, with the commitment for reviewing the boundary in mind, the green wedge boundary must be appraised through the determination of this application in order to determine the weight to be applied to the policy as required under legislation.

It should be noted that it is not considered appropriate to suggest that the development as proposed is unacceptable because it is premature to the forthcoming green wedge review. Planning authorities are continually advised by Central Government and from Government Office that prematurity is not a reason for refusal, for the simple reason that it stifles economic development.

Accordingly it is necessary as part of the determination of this application to assess the impact of the development on the green wedge and the role the applications site plays within the current boundary.

As part of the Councils evidence base for the Site Allocations and Generic Development Control Policies Development Plan Document, the methodology for the review of the green wedge will be informed by the objectives set out in paragraph 4.2.1 of the RSS, which in turn have influenced the Joint Leicester and Leicestershire Green Wedge Review Methodology Paper. Whilst the RSS is no longer a material consideration work on the review has progressed and the intention to review the wedge remains embedded with the commitment to Core Strategy Policy 6.

It should be noted that green wedge policy has historically been derived from stricter green belt policy that is put in place to prevent urban sprawl and the unnecessary loss of countryside. At a local level green wedge policy seeks to safeguard structurally important areas of open land around key settlements and was derived from the now defunct Leicestershire Structure Plan. The primary intention behind the presence of the green wedge

is therefore to protect the individual identify of settlements and communities for their own sake as well as shaping urban development.

In accordance with the Joint Leicester and Leicestershire Green Wedge Review Methodology Paper, Officers have carried out a desktop review exercise in light of this application to establish the level of weight that can be given to the impact of the development on the objectives and purposes of the green wedge.

#### Preventing the merging of the settlements

It is considered that the land does not provide a strategic role in preventing the merging of these settlements with Hinckley.

#### Guiding development form

The role of the green wedge is to guide the development form of urban areas having the added benefit of providing communities with access to green infrastructure. If the application site were removed from the green wedge designation a barrier to the green wedge would still exist in the form of the golf course and college which could prevent further sprawl.

#### Providing a green lung in the urban areas

The site is agricultural in nature and is not publically accessible. It is considered that on this basis the site does not perform the role of a green lung.

#### A recreational resource

A green wedge should either: provide formal or informal recreation; have the potential to provide a recreational resource; or formal or informal access into the green wedge should be visible. As highlighted previously the site is not publically accessible and therefore this limits any recreational role.

The analysis above indicates that the site does not meet the objectives of how land contributes to the purpose of a green wedge. It is therefore considered that in this particular instance it would be difficult to attach significant weight to the green wedge policy to such an extent that it would justify refusal of this application. The question of weight and balance does, however, ultimately lie with the decision maker.

#### Housing Supply

The Hinckley and Bosworth Core Strategy was adopted in December 2009 and the housing figures contained in the Core Strategy were based on the figures set in the East Midlands Regional Plan. As part of the production of the Core Strategy the Borough Council took into account a number of evidence base documents which informed current and future levels of need and demand for housing.

The Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) was one document that was used as part of the Core Strategy evidence base and the Core Strategy document reflects the findings of the SHMA process. However, it reflects not just the document itself, which is fixed in time, but the ongoing process of understanding local housing markets, gathering evidence and data, and developing tools and models, which are likely to continue to evolve, the need for flexibility in response to housing market conditions and in different housing markets within the local authority area. As a result the SHMA provides robust and up to date evidence of housing need in the Borough. The Borough Council were part of the steering group for the production of this document and the authority provided a range of data sets to inform the assessment. The findings of the SHMA reflect the findings of the Regional Plan.

In addition, the Strategic Housing Land Availability Assessment informed the Core Strategy. The SHLAA provided background evidence on the potential supply of housing land within the Borough. This document provided evidence to underpin the deliverability of the Core Strategy, in particular to justify that sufficient deliverable land can be provided on a variety of sustainable sites across the Borough. It is the quantum of deliverable housing land that is critical in underpinning the housing strategy outlined in the Core Strategy. It provides evidence, in general terms, that sufficient deliverable housing land can be provided to meet the Council's preferred approach to future housing growth. This approach allows for all residents of the Borough to have access to a suitable home which they can afford in a range of sustainable locations (when combined with the other spatial objectives of the core strategy). Whilst the SHLAA forms a single evidence strand in pulling together a preferred housing strategy that is considered deliverable for the core strategy it is important to recognise that it provides vital information in a number of areas. It provides a quantum of available and deliverable land in a range of settlements which have been assessed against a number of constraints (i.e. environmental, topographical, access and ownership). Importantly it also considers a timeframe for potential development.

Whilst there is a commitment to do so, as yet the Regional Plan has not been formally abolished and still forms part of the development plan. No transitional arrangements have been produced and therefore the housing figures contained within the recently Adopted Core Strategy should still apply as there is a sound, tested and publicly examined evidence base that supports these figures. Notwithstanding this point, a pick and choose approach to the contents of the Core Strategy cannot be adopted at this stage, as this would leave the authority with voids in policy.

As the Council has recently adopted the Core Strategy, the housing figures contained in the Adopted Core strategy should be used in decision making. The housing figures contained in the Core Strategy have been independently inspected and were found to be sound through public examination. In light of this the housing figures contained within the adopted Core Strategy are based on robust evidence and should continue to be used as part of the Borough Council's Adopted Development Plan. This approach is generally taken on all applications for housing across the Borough.

The requirement for the Council to provide a five year supply of housing land was not removed from PPS3 in its recent revisions published in June 2010. As a result, the five year supply of housing land remains a material consideration in the determination of this and other planning applications. At the time of writing the report the Borough Council are unable to demonstrate a 5-year land supply and currently has a provision of 4 years 4 months and a shortfall of 303 dwellings.

In considering the shortfall in the land supply position, Policy 1 of the Core Strategy requires a minimum of 1120 dwellings within Hinckley during the plan period. The proposal being for 232 new dwellings would count towards the housing requirement for the settlement of Hinckley set out in the Core Strategy.

The provision of alternative housing sites within Hinckley to meet the Core Strategy objectives and to secure a 5 year housing supply is poor and the draft Site Allocations DPD does not propose enough preferred option sites to meet the minimum requirements of the Core Strategy. Accordingly, this overall shortfall and lack of available alternative provision needs to be considered alongside the proposal that is currently under consideration.

Whilst the Borough Council currently holds a shortfall in its 5 year housing supply this matter alone does not legitimise the approval of inappropriate and non-preferable sites. It is only one of many material considerations. However, whilst the council is taking active steps to curtail the lack of land through the Site Allocations process and the draft Site Allocations DPD has undergone preferred options consultation, the site will make a significant contribution to the need for homes within Hinckley and does benefit from support of the 5

year land supply argument. It should be noted that the application site was not supported as a preferred option through this process.

### Character and Appearance of the Countryside

As discussed earlier in this report the application sites lies outside of the defined settlement boundary for Hinckley and is within the Countryside. For the avoidance of any doubt it should be noted that the site does abut the settlement boundary.

The application seeks to demonstrate that the development of the site will not result in any adverse visual impact on the character of the area. It is important to note that by virtue of the very nature of the site being developed (as proposed) the appearance of the site and its immediate character will alter. The open rural agricultural character will, inevitably, be lost through the developed and urban feel of a residential development. There will, however, be opportunities to ensure the balance between providing homes and providing an attractive and green development of a high quality through the reserved matters process.

The site is relatively flat along its frontage to Leicester Road; however the site does rise slightly towards the west. The site falls away to the south, gradually at first and then steeper when nearing the sites southern boundary. The existing dwellings on Bradgate Road occupy a slightly elevated position in comparison to the application site and the golf course to the east equally occupies a slightly elevated position. The resultant effect of the shape of the landform is that the site is relatively well screened from the north (by the existing development on the north side of Leicester Road), and to the east and west by the golf course and the backdrop of the existing edge of the settlement boundary of Hinckley.

The application confirms that the site has most visual impact when viewed from the south and this point is very much shared by officers. However, it is reasonable to note that due to the falling nature of the site and the overall shape of the landform, when viewed from the south any development will be seen against the backdrop of existing settlement, particularly those dwellings of Bradgate Road, Bradgate Gardens and Leicester Road and on this basis the development cannot be considered to have a significant visual impact upon the character and appearance of the adjacent countryside. This is, however, a subjective view and another issue for the decision maker to have regard to.

Whilst the current applications is only in outline form, any reserved matters application would be required to demonstrate how the scale, layout, appearance and landscaping of the site further ensure the development assimilates within the site and does not have an adverse impact upon the adjacent countryside. Careful consideration will need to be given to the scale of dwellings and their position within the site and extensive landscaping will undoubtedly be a conditional requirement to ensure that an appropriate and high quality development is achieved.

### Highways

The application proposes to create two new accesses to the site from Leicester Road, one permanent access and one that is secured and only accessible by the emergency services. To facilitate the creation of a safe access a ghost right turn lane is proposed to allow vehicles travelling out of Hinckley to wait clear of the moving traffic to then turn right in to the site. A pedestrian link between the site and the public footpath to the south of the site is also proposed. The nearest bus stops are located on both sides of Leicester Road outside of the golf course.

The application also confirms that there is an agreement in place with the County Council to look at reducing the speed limit on Leicester Road in front of the site and in effect extend the 30mph limit to include the site frontage. This can only be facilitated through a Traffic Regulation Order (TRO) and there is no certainty that such an order would be successful, accordingly the proposed access and the suitability of the development as a whole has been

designed and considered on the basis of the existing 40mph speed limit. Obviously should the TRO be successful the proposed access would benefit from a greater degree of benefit with the reduced speed limit.

The Director of Environment and Transport (Highways) confirms that they are aware of the existing road safety problems in the vicinity of the development site. The supporting Transport Assessment indicates that there has been a number of loss of control personal injury accidents on Leicester Road between the development site and the golf course which occurred between 2005 and 2006. The County Council has sought to address the existing road safety problems in this location through the implementation of road safety measures in the vicinity of the access to the golf course comprising the installation of refuges, bollards and lighting, as well as carriageway markings and entry treatments to warn approaching drivers of the transition to a 30mph speed limit. Since these improvements there are no recorded Personal Injury accidents on Leicester Road in this vicinity.

To the west of the site, and more recently, there have been a number of minor injury accidents in the vicinity of Leicester Road involving overtaking and pedestrians. In relation to these existing problems, the County Council are currently progressing a RIOT (Reducing the Impact of Traffic) scheme along Leicester Road between the junctions of Stoneygate Drive and John Street involving the installation of vehicle activated '30mph' signage, junction protection at the junction of Leicester Road and Stoneygate Drive and associated carriageway markings. Further to the above, it is considered that the extension of the 30mph speed limit as part of the proposed access junction works will contribute further to improved driver behaviour in this vicinity.

On this basis the Director of Environment and Transport (Highways) raises no objection to the proposal subject to a series of developer contributions and conditional requirements. Highways consider the development to be acceptable in highway safety terms subject to:-

- a) The provision of a green travel plan
- b) The resurfacing of footpath U10 to the south of the site
- c) Bus stop structural improvements (to facilitate the access by low floor buses)
- d) The installation of an information display case at the existing bus stop
- e) The installation of bus shelter at the existing bus stop
- f) The installation of an electronic Real Time Information display at the bus stop
- g) 1 no. Travel Pack per residential dwelling
- h) 2 no. 6-month bus passes per dwelling
- i) The provision of an extension to the footway on the south side of Leicester Road to extend to the sites frontage.

The application suggests that a developer contribution of £10,000 could be made available for improvements to the footpath as associated with its further use by occupiers of the development. Whilst this offer is well received and the pedestrian link between the site and the existing urban area is sound in planning and urban design terms, it must be considered as a developer contribution and the CIL regulations applied. The developer contributions listed above are appraised in terms of their CIL compliance in the subsequent sections of this report.

### Impact on Neighbours

The impact on adjacent occupiers particularly in terms of privacy, loss of sunlight and daylight and overbearing form, will be a primary consideration at the reserved matters stage when the scale, layout and appearance are presented for approval.

With the exception of the dwellings of the Bradgate Gardens development and the dwellings permitted at no.19 Bradgate Road, the adjacent dwellings are all located at reasonable distance from the application site. The extensive gardens of the adjacent dwellings ensure that a good degree of separation is achieved between the existing dwellings and the

application site. The indicative masterplan layout suggests that careful consideration has and will be given at the design stage to the impact upon adjacent occupiers. The relationship between the proposed dwellings of the Bradgate Gardens development and the dwellings permitted at no.19 Bradgate Road will equally require careful consideration because of the densities of these developments and the constraints they will place on the layout of the proposed development.

Any reserved matters application would need to satisfy the requirements of the Council's Adopted Supplementary Planning Guidance on New Residential Development to ensure that the development accords with Local Plan Policy BE1.

Whilst a significant volume of neighbour objections have been received on the grounds of privacy, overlooking and overbearing development, these matters will be appropriately addressed at the reserved matters stage. In the current outline application there is no information or indication that the development will result in any adverse and material impact upon adjacent neighbours.

Arising issues of noise and air pollution are not considered to be material considerations in the determination of this application. Whilst the creation of a new homes will undoubtedly give rise to increase cars in the area there is no evidence presented that suggests this would be to the detriment of existing residents.

Personal injuries associated with airborne golf balls are not considered to be a significant risk that would allow this to be a serious material consideration and a duty of care lies with the golf course to ensure that their operations do not trespass and cause nuisance to others.

The neighbour objections in respect of devaluation of property and loss of outlook are not material planning considerations that can influence the determination of a planning application.

The loss of a green lung will occur by the very nature of the urbanisation of the site; however the lack of public access to the site means that no adverse impact on the provision of recreation will occur.

#### Affordable Housing

The applicant has committed to providing 20% affordable housing within the draft Heads of Terms with tenure split which is in accordance with Core Strategy Policy 15. This equates to the provision of 46 affordable homes which in line with Policy 15 would be 75% for social rent and 25% for intermediate tenure. The Council's Housing Officer has confirmed that there is a high demand for affordable housing in the form of family homes in Hinckley and therefore welcomes the provision.

The mix of units would be agreed at the reserved matters stage. The provision of affordable units will be secured through a Section 106 Agreement.

#### Developer Contributions

The general approach to developer contributions must be considered alongside the guidance contained within Circular 05/05 and more recently in the Community Infrastructure Levy Regulations 2010 (CIL).

CIL 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 consultation responses set out in the above sections of this report specify the requests from Leicestershire County Council for contributions towards highways (public transport), libraries, Rights of Way and civic amenity per dwelling. Requests have also been received from the Primary Care Trust and the Police.

The contributions requested by the Police, PCT, LCC Civic Highways (public transport), Amenity and Libraries fail to demonstrate the impact of the development and how this justifies the need for the contribution and or works and the value of it. All consultees have been advised of the deficiencies in their justification and some have sought to provide further justification, however following discussion between officers and the Council's Solicitor, it has been concluded that there is no compliance with the CIL Regulations and therefore such contributions cannot be justified.

In terms of the contribution offered by the applicant in respect of footpath improvements, there is a commitment from LCC Rights of Way and Highways that the footpath if deficient in its functionality and usability that would warrant improvement. However, at the time of writing, details of the deficiencies and likely improvements are not provided. The matter of this contribution remains under consideration and will be reported as a late item.

The request by LCC Education is believed to be CIL compliant but is currently being looked at in greater detail and will be reported as a late item.

The application site is outside of 600 metres of any formal space against which a contribution under Policy REC2 can be requested. The development and the application site are too small to secure on site formal recreation provision.

The application, through the indicative, masterplan seeks to provide a total of 1.77 hectares of outdoor/informal play space on site. This provision if provided would be in lieu of any off site contribution towards the Kirk Drive/Field Close recreation area which is within 400 metres of the site and in accordance with the requirements of Policy REC3, a contribution towards provision and maintenance of this space could be sought. Given the outline nature of the current application an either or option would be built in to any Section 106 Agreement to ensure that should on site provision not be provided at the reserved matters stage full contributions could be sought in respect of existing sites.

The application has agreed heads of terms based upon the requested CIL compliant contributions that are discussed above.

### Flooding and Drainage

The Environment Agency in their consultation response on the earlier application confirmed that they have no objection to the proposal, however at the time of writing they have not responded to the consultation on the current proposal. Notwithstanding this point, there is no reason to suggest that their opinion will have changed and will therefore be reported as a late item. Details of drainage and balancing ponds will be submitted at the reserved matters stage and the EA will be consulted again at that point.

Whilst Severn Trent Water have provided a formal observation of no objection subject to a conditional submission of drainage plans, they do acknowledge that it is not known whether the local public sewerage infrastructure will be able to accommodate the expected domestic foul and surface water flows that would arise from the development. In addition a large amount of neighbour objection to the scheme revolves around the issues of flooding and capacity of the foul sewer in the locality. Through consultation responses on other applications in the locality it is well known that the foul sewer system in the Leicester Road area is at maximum capacity and there are frequent occurrences of flooding of the foul sewer at time of heavy rainfall.

The matter of capacity has been discussed at length with Severn Trent and they have reiterated that they can raise no objection subject to drainage details being submitted. They have explained that in accordance with a recent legal challenge, the provision of capacity is their statutory duty in conjunction with the developer and as such they cannot recommend refusal.

### Ecology

The submitted Ecology survey confirms that there is no overarching ecological interest within the site other than that of the potential for nesting birds during certain times of the year. The indicative masterplan shows that boundary and the sites dividing hedgerows will be retained as far as possible to avoid unnecessary loss. The statutory controls of the Wildlife and Countryside Act and others will ensure no work can take place to the hedgerows during the nesting season.

### Archaeology

The site has been investigated for archaeological remains and trial trenching has been carried out. The results of the trenching have indicated that archaeological remains are not likely to present an obstacle to development however to ensure that any archaeological remains present are dealt with appropriately, the applicant should provide for a programme of exploratory trial trenching prior to the start of development. This work is required to identify and locate any archaeological remains of significance, and propose suitable treatment to avoid or minimise damage by the development.

### Other Matters

In line with the requirements of Policy 24 of the Adopted Core Strategy all new residential development in Hinckley is required to be constructed to Code Level 3 of the Code for Sustainable Homes.

The development is premature to the adoption of the Preferred Options Development Plan Document however guidance is clear on this matter and development management and the determination of planning applications cannot be put on hold whilst awaiting adoption and therefore an argument of prematurity is not a material consideration.

### Conclusion

The general presumption within the planning system is to develop land as sustainably as possible to prevent the unnecessary loss of the countryside, however a realistic approach to the future pattern of development within the Borough needs to be considered. In recent years Hinckley has seen most of its large brownfield sites be developed or at least given consent for development however the housing needs continue to grow and provision needs to be made for this growth as sustainably as possible. In the adoption of the Core Strategy the Borough Council has committed itself to the delivery of development, in particular housing.

In general land use planning terms, the development of edge of existing urban centres is seen as being the most favourable approach to meet the development needs of any settlement. Inevitably it does result in the loss of greenfield sites, however in the commitment to adopt the housing figures in the Core Strategy there is an assumption that greenfield sites will be lost in delivering this commitment.

Turning to the current proposal, the site is located on the edge of Hinckley and is therefore considered to be sustainably positioned close to the services that Hinckley offers to a growing residential population. The green wedge designation to the site does seek to prevent inappropriate development, but the green wedge assessment confirms that the site no longer performs a significant function in terms of the amalgamation of nearby settlements and recreational value. The 5 year housing land supply issue does confirm that the Borough

Council is unable to provide an appropriate supply and with the adoption of the housing figures within the Core Strategy supports the development of this site over and above the land use designation. Accordingly, there are a number of reasons that indicate the development should be considered favourably.

Officers have spent a significant amount of time investigating how other planning authorities and Planning Inspectors have dealt with the issue of 5 year land supply and land designation. Due to the relatively small number of planning authorities having adopted Core Strategies the availability of direct comparable cases are few and far between, however the principle issues for consideration are useful indicators to who Hinckley and Bosworth should determine this application.

The following cases all represent similar circumstances whereby land supply has been considered alongside land use designation and are therefore important cases to consider:-

Secretary of State Decision (Eric Pickles)

Princess Margaret Road, East Tilbury

Land Supply and Affordable Housing vs. Green Belt

Allowed: Housing shortfall and need for affordable housing outweighs harm to developing the green belt.

Appeal Decision

Whitehill Road, Peel

Greenfield previously used site vs. land supply and land use designation

Allowed: Housing shortfall outweighs harm.

Appeal Decision

Black Abbey Lane, Glusburn, Keighley

Countryside. Land supply vs. character and appearance

Dismissed: Adverse impact on character but support for land supply case "it is inevitable that some greenfield sites will need to be delivered" to meet needs.

Appeal Decision

Kitling Greaves Lane, Burton upon Trent

Countryside, character and appearance vs. land supply

Allowed: Land supply prevails and would not constitute the unwarranted release of greenfield land.

Appeal Decision

Borrowcup Close, Leyslands, Countesthorpe, Leicestershire

Countryside, green wedge, sustainability vs. land supply

Dismissed: Land supply available and would result in unnecessary harm to the important green wedge. Found to be a sustainable site.

Appeal Decision

London Road, Markfield, Coalville, Leicestershire

Countryside vs. land supply and developer contributions

Allowed: Land supply prevails and development in accordance with development plan. No countryside harm.

Appeal Decision

Loughborough Road, Asfordby, Leicestershire

Countryside vs. land supply

Allowed: Land supply prevails.

Planning Application

Borrowcup Close, Leyslands, Countesthorpe, Leicestershire  
Countryside, green wedge, sustainability vs. land supply  
Application permitted: No longer a 5 year housing supply.

Planning Application

Land east of Scarborough Close, The Leyslands, Countesthorpe  
Countryside, green wedge, sustainability vs. land supply  
Application permitted: No longer a 5 year housing supply.

Planning Application

Loughborough Road, Rothley, Leicestershire  
Allotments and Countryside vs. land supply  
Allowed: Land supply prevails. Local need and most preferable site for development.

The above cases are a representative snapshot of all recent and relevant appeal decision and local cases.

The above cases demonstrate that planning authorities, Planning Inspectors and even the Secretary of State are all attaching significant weight to the need to provide and maintain a 5 year land supply even though it inevitably results in the loss of greenfield sites, whether designated countryside, designated green wedge, areas of separation or even green belt. On this basis it is considered that significant weight must be attached to the need to achieve a 5 year land supply and that the designation of the site as green wedge has limited chance of being able to resist development until such time as a land supply is achieved. There is also an argument that if the green wedge review using the agreed methodology were to be carried out this may well help to strengthen the boundaries that are established through that review.

To seek further clarification on the land supply/green wedge situation and the particulars of this case Counsel Opinion has been sought. The opinion indicates that Paragraph 71 of PPS 3 is of paramount importance in considering such matters and confirms that regard must be had to all policies in the PPS, including the considerations in paragraph 69 which cover, inter alia, the suitability of the site for housing, the need to reflect the spatial vision for the area and the avoidance of undermining wider policy objectives. Accordingly, it would appear that the proposal would undermine the wider policy objectives, the green wedge policy.

The Opinion further advises that Policy 6 of the Core Strategy would allow the Council to resist the proposal providing it can be demonstrated that there would be harm to the objectives of the Green Wedge. It is important to identify that it cannot necessarily follow that, just because a site was in the Green Wedge, it would for that reason alone harm the objectives of the Green Wedge or, at least, harm those objectives to a material degree.

In considering the Opinion in light of the matters discussed earlier in this report, regard must be had to the fact that no harm can be identified to the green wedge by the development as proposed and as such the refusal of permission based upon conflict with Policy 6 of the Core Strategy could not, in this instance, be sustained.

In conclusion, for the reasons discussed in this report; the absence of a 5 year land supply, with no material harm identified to the green wedge, with a satisfactory and safe highway arrangement proposed and with the necessary and justifiable degree of developer contributions the development as proposed is considered to be acceptable. This conclusion will be further strengthened through the consideration of the reserved matters applicable to this proposal when a high quality, sustainable and attractive development will be sought.

**RECOMMENDATION:-** That subject to the LCC Education and Footpath Improvement contribution being CIL compliant, no adverse comments being received from the Environment Agency, Cyclists Touring Club, National Grid, Leicestershire Fire and Rescue and the Head of Corporate and Scrutiny Services (Green Spaces), 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 of developer contributions as follows:-

- a) 20% Affordable Housing.
- b) Construction of all dwellings to minimum of Code Level 3 of the Code for Sustainable Homes.
- c) Play and Open Space contributions in accordance with Adopted Supplementary Planning Document: Play and Open Space.
- d) Education contribution in accordance with standard formula and rates as outlined in the Statement of Requirements for Developer Contributions in Leicestershire.

**Failure to complete the above agreement by 30 November 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 with the development plan and would not be to the detriment of visual or residential amenity, highway safety, any protected species or the wider character of the area.

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

Hinckley & Bosworth Borough Council Core Strategy (2009):- Policies 1, 6, 15, 16, 19, 24

- 1 Application for the approval of reserved matters shall be made within one year from the date of this permission and the development shall be begun not later than one year from the date of approval of the last of the reserved matters to be approved.
- 2 Approval of the following details (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced:-
  - i) The layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development.
  - ii) The scale of each building proposed in relation to its surroundings.
  - iii) The appearance of the development including the aspects of a building or place that determine the visual impression it makes.
  - iv) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures.
- 3 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:-

Site Location Plan  
Illustrative Masterplan 3372/P/02  
Transport Assessment 9131-04  
Ecological Appraisal October 2009

- 4 Notwithstanding the details submitted, no development shall commence until such time as details of the proposed ghost island right turn junction to the site from Leicester Road have been submitted to and agreed in writing by the Local Planning Authority. Before the occupation of the first Dwelling hereby approved the approved junction shall be fully provided in accordance with the approved details and maintained thereafter.
- 5 Notwithstanding the details submitted, no development shall commence until such time as details of the proposed emergency access to the site from Leicester Road have been submitted to and agreed in writing by the Local Planning Authority. Prior to the occupation of the 151st dwelling the approved access shall be fully provided in accordance with the approved details and maintained thereafter.
- 6 No walls, planting or fences shall be erected or allowed to grow on the Highway boundary exceeding 0.9 metres in height above the level of the adjacent carriageway.
- 7 No development shall commence until details of a pedestrian footway continuous with the site frontage along Leicester Road has been submitted to and agreed in writing by the Local Planning Authority. The approved footway shall then be constructed and made available for first use prior to the occupation of the first dwelling hereby approved.
- 8 For the period of the construction of the development within the site, vehicle wheel cleansing facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned, as may be necessary, before entering the Highway.
- 9 Before first use of the development hereby permitted, visibility splays of 4.5 metres by 120 metres shall be provided at the junction of the access with Leicester Road. These shall be in accordance with the standards contained in the current County Council design guide and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.
- 10 The development shall only proceed in strict accordance with the mitigation measures set out in the accompanying ecological appraisal (FCPR Eco Appraisal October 2009) unless agreed otherwise in writing with the Local Planning Authority.
- 11 No development shall commence until details of surface water and foul water drainage proposals, incorporating sustainable drainage principles where possible and an assessment of the hydrological and hydro geological context of the development, have been submitted to and approved by the Local Planning Authority. The approved scheme shall be fully implemented prior to the occupation of the first dwelling hereby approved unless agreed otherwise in writing by the Local Planning Authority.
- 12 No development shall take place within the application area until the applicant has secured the implementation of an appropriate programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The development shall be undertaken only in full accordance with the approved written scheme and no variation shall take place without prior written consent of the local planning authority.

- 13 The applicant shall notify the local planning authority of the intention to commence works (including site works of any kind, at least one week before such commencement. Thereafter, the programme of archaeological work shall be completed in accordance with the approved written scheme of investigation, including any necessary fieldwork, post excavation analysis, report writing and archive deposition, as detailed in the approved scheme. The report and archive shall be prepared and deposited no later than six months after the commencement of fieldwork. No variation shall take place without the prior written consent of the local planning authority.

**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 the development has a safe and useable vehicular access, in the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 5 To enable vehicles to enter and leave the site in the event that the main access and/or Leicester Road become blocked, in the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 6 To ensure that an adequate line of vision is available in the interests of road safety to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 7 The proposal would lead to an increase in pedestrian movement along Leicester Road and the footway is therefore required for the safety of pedestrians. In accordance with the requirements of Policies BE1 and T5 of the Adopted Hinckley and Bosworth Local Plan.
- 8 To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users. In accordance with the requirements of Policy T5 of the Adopted Hinckley and Bosworth Local Plan.
- 9 To ensure that an adequate line of vision is available in the interests of road safety to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 10 To ensure that the development does not have an adverse impact upon any ecological interest or protected species in accordance with PPS9: Bio diversity and Geological Conservation.
- 11 To ensure satisfactory provisions are made for the drainage of the site, in accordance with the requirements of Policies BE1, NE13 and NE14 of the Adopted Hinckley and Bosworth Local Plan.
- 12 To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation to accord with policy BE16 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 5: 'Planning for the Historic Environment'.
- 13 To ensure satisfactory archaeological investigation and recording to accord with policy BE16 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 5: 'Planning for the Historic Environment'.

## 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 6 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 You will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site Highway works before development commences.
- 6 This planning permission is subject to a legal agreement.

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

**Item:** 02

**Reference:** 10/00695/FUL

**Applicant:** Tungsten Properties Ltd & SME Plc

**Location:** Plot E Maple Drive Hinckley Leicestershire

**Proposal:** ERECTION OF A SINGLE STOREY "DRIVE-THROUGH" A3/A5 RESTAURANT, INCLUDING DETAILS OF PARKING, HARD LANDSCAPING, AND EXTERNAL AMENITY AREA

**Target Date:** 9 November 2010

### Introduction:-

This application seeks full planning permission for a 232 square metre, single storey drive-through restaurant and takeaway with ancillary vehicle access and circulation routes, parking and hard and soft landscaping. The restaurant will provide seating for 83 people. The application details suggest the unit occupier will be KFC.

The site is to the north of Coventry Road and to the west of the Ashby Canal. It is a roughly rectangular in shape and is 0.27 hectares in size. To the south lies Coventry Road and the wider residential areas to the south. Further to west lies residential properties and the Harrow Brook industrial estate.

The application site forms a small part of the partially complete Tungsten Park development and is in place of one of the previously approved car showrooms on the Coventry Road frontage.

The application is accompanied by a design and access statement and transport assessment.

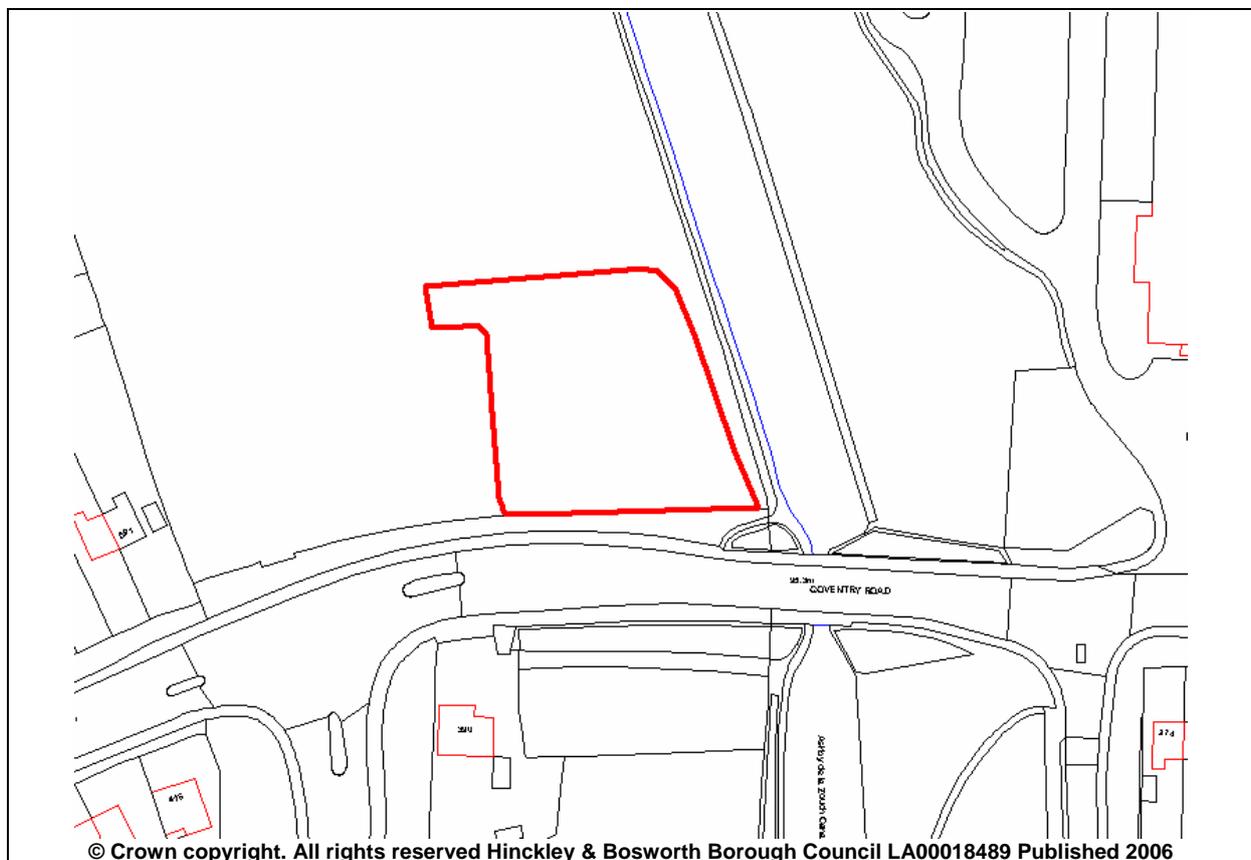
The design and access statement seeks to explain the design approach taken and the deals with matters of materials, parking and landscaping, along with a planning policy justification.

The transport assessment seeks to compare the vehicle movements of the previously approved car showroom to the proposed takeaway restaurant use as proposed and confirms that the proposal will result in a decrease in vehicle movements.

Following concerns raised by officers amended plans have been submitted proposing minor design modifications to the roof and elevations.

**History:-**

07/01150/FUL	Mixed commercial development comprising B1, B2 and B8 Sui Generis uses	Approved	12.12.07
07/00529/FUL	Mixed commercial development comprising B1, B2, B8 and Sui Generis uses	Refused	29.08.07
05/00615/FUL	Erection of 10 Commercial units	Permitted	11.08.05
03/00411/CONDIT	Variation of condition 3 of application 99/00048/OUT to allow extension of time for submission of reserved matters	Permitted	09.06.03
99/00048/OUT	Industrial Development for B1, B2 and B8 uses	Allowed at appeal	09.05.00



## **Consultations:-**

No objection has been received from:-

Environment Agency  
Directorate of Chief Executive, LCC (Ecology).

No objection subject to conditions have been received from:-

British Waterways  
Severn Trent Water  
Head of Community Services (Land Drainage).

The Ashby Canal Association object to the proposal on the following grounds:-

- a) Restaurant was not in the original proposal
- b) Inappropriate building and not in keeping with the conservation area
- c) Detrimental to the conservation area
- d) Risk of pollution to the canal.

The Head of Community Services (Pollution) raises concern of the noise from extraction and plant equipment, pollution from associated lighting and that the excessive opening hours proposed are likely to compound these problems.

Site notice displayed and neighbours notified.

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

- a) traffic and highway safety
- b) noise
- c) reduction in property value
- d) pollution to canal
- e) loss of employment land
- f) litter
- g) inappropriate opening hours
- h) will lead to demands for excessive signage
- i) no local need or support within a residential area.

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

Director of Environment and Transport (Highways)  
Severn Trent Water  
Inland Waterways Association  
Ramblers Association.

## **Policy:-**

### National Planning Guidance

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

Planning Policy Statement 4: Planning for Sustainable Economic Growth confirms that to help achieve sustainable economic growth, the Government's objectives for planning are to:-

- i) Build prosperous communities by improving the economic performance of cities, towns, regions, sub-regions and local areas, both urban and rural Reduce the gap in economic growth rates between regions, promoting regeneration and tackling deprivation
- ii) Deliver more sustainable patterns of development, reduce the need to travel, especially by car and respond to climate change
- iii) Promote the vitality and viability of town and other centres as important places for communities.

The PPS sets out a suite of development management policies that should be considered in making decisions on economic development.

### Regional Policy

The Secretary of State has indicated his intention to abolish Regional Spatial Strategies (RSS) and laid down an order on 6 July to revoke them with immediate effect, accordingly very minimal weight should be attached to the policies of the East Midlands Regional Plan.

### Local Planning Policy

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

Policy 1: Development in Hinckley confirms that to support Hinckley's role as a sub-regional centre the council will inter alia, support the development of an additional 5,300 square metres (net) of convenience floor space, primarily located on the bus station redevelopment site.

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

Policy BE1 of the adopted Local Plan states that the Borough Council will seek to ensure a high standard of design in order to safeguard and enhance the existing environment and that planning permission will be granted where the development complements or enhances the character of the surrounding area with regard to design, materials and architectural features, and is not prejudicial to the comprehensive development of a larger area.

Policy T5 of the adopted Local Plan refers to the application of highway design and vehicle parking standards.

Policy EMP4 of the adopted Hinckley and Bosworth Local Plan provides for employment development on sites other than those allocated for employment, subject to criterion.

The site lies adjacent to Ashby-de-la-Zouch canal, which is a designated Conservation Area and is afforded protection through Policy BE7 and Policy REC6 of the Hinckley and Bosworth Local Plan. Policy BE7 relates to development within the Conservation Area, whilst Policy REC6 provides a corridor either side of the canal in order to protect the recreational and ecological value of the canal. Development is allowed within the corridor subject to specified criterion.

### **Appraisal:-**

The main considerations with regards to this application are the principle of development, highways, design and siting, impact on the Conservation Area and impact on neighbours.

## Principle of Development

In strict policy terms, the application seeks full planning permission for the development of a site that is protected by an Area of Separation within the adopted Local Plan. This policy allows for certain sympathetic developments on such sites; however employment is not one of them. Furthermore, the site lies adjacent to Ashby-de-la-Zouch canal, which has a protection corridor alongside it, this also allows for development, but again not employment. Therefore the development of this site for employment uses is considered to be contrary to policies contained in the Local Plan.

However, the site has been subject to outline and full planning permission previously and the application was tested at public inquiry before an Inspector. It was held by the Inspector that the designation of the Area of Separation had no strategic or visual justification. He referred to the public local inquiry into objections to the Hinckley and Bosworth Local Plan where the Inspectors recommended the site as an allocation for employment uses. Whilst the Local Planning Authority declined to accept the Inspectors recommendation the Inspector at the public inquiry for outline planning permission allowed the appeal. The Inspector, when considering the development of this site at outline stage, considered that any units within 150 metres of Coventry Road should be B1 use, to not cause disturbance to adjoining residents.

It is considered that the planning history of the site is a material consideration that outweighs the historic policy objection to the development of this site.

In light of the planning history and appeal decision, the starting point for the consideration of this development is the most recent comprehensive planning permission for the development of the site. This is permission ref: 07/01150/FUL for a mixed use commercial development comprising B1, B2 and B8 Sui Generis uses.

The proposed takeaway restaurant use is not in conformity of the 2007 planning permission in so far as this permission does not grant consent for any food based uses on the site. However, whilst the proposals unconformity with the earlier permission does exist there is no planning policy that formally guides the future development of this site. Accordingly, it is necessary to revert to the other relevant policies of the development plan and sound land use planning principles to ascertain if the proposed restaurant use is acceptable.

The application site was originally to be occupied by the Ashby and Mann car showroom and the layout of the site very much reflected this. However, the agent has confirmed that Ashby and Mann have removed the interest in the site and as such the site remains unoccupied with no identified long term occupier. Whilst the occupation of the site is ultimately controlled by market forces, the site is visually prominent and located on a key access route into Hinckley and adjacent to a Conservation Area where appropriate development should be actively encouraged. The local planning authority does have a role to play in enabling and managing development where possible and in this case there is an evident need to get the development of Tungsten Park underway, particularly the commencement of appropriate development on the sites frontage which will hopefully in turn act as a catalyst to further develop out the site.

In land use terms the site is within a mixed use area. There is extensive commercial / industrial development to the north and west, residential development to the west and south and recreation and service uses to the east. Accordingly, there is no one defined land use in the area which means there is some flexibility in considering other uses subject to no use conflicts arising.

The application seeks to demonstrate that the proposed use whilst being at odds with the initial commercial uses that are proposed on site will provide a complimentary service to people which work in the adjacent industrial estates. This in turn will result in the further reinvestment in the local economy and may reduce vehicle movement whereby local workers are travelling further to obtain lunch or refreshments. Whilst no evidence is submitted in

support of this point there is a tangible argument that the proposed use could act as a much needed food based use in the area.

The proposal is generally considered to be in conformity with Planning Policy Statement 4: Planning for Sustainable Economic Growth as it will benefit the wider economy and will offer a sustainably located facility in a mixed use area, reducing the need for further extended trips by car. The proposal is relatively small scale and is not considered to compromise any wider current or future planning objectives in this area of the town or within Hinckley Town Centre. The application explains that the proposal is for a new KFC franchise and has no association with the existing KFC in Hinckley town centre. The applicant is also keen to stress that the proposal will not take business from the existing town centre restaurant and as such there is no risk to the loss of the town centre restaurant other than by those natural forces that the market places on any commercial venture.

In light of the need to encourage appropriate development of the site, the undeveloped and vacant nature of site and the planning history, there is no in principle objection to the proposed drive through restaurant use unless there is unconformity with other specific policies of the development plan which are appraised further in the later sections of this report.

### Highways

The application seeks to take access from the Tungsten Park spine road in the same position as the earlier car showroom development did and seeks to provide 34 off street car parking spaces. The accompanying transport assessment seeks to demonstrate that the proposed use will result in a reduction of vehicle movements than those expected from the approved car showroom and therefore results in a highway gain.

At the time of writing the report the observations of the Director of Environment and Transport (Highways) had not been received and will be reported and appraised as a late item.

### Design and Siting

The proposed restaurant building is to be sited in the southwest corner of the application site, close to the foot of the existing embankment to Coventry Road and to the Tungsten Park spine road. This arrangement means that the building will have the most prominent position it can within the streetscene given the difference in the level of the application site and Coventry Road. The building will be most prominent on the approach into Hinckley from the southwest; however the roof mass of the building will remain visible when leaving Hinckley from the east. In these respects the siting of the building is considered acceptable as it will add some much needed presence to the sites Coventry Road frontage.

The curved roof design of the building respects the curved roof form of the other commercial buildings on Tungsten Park, both those that are already constructed and those approved awaiting construction. Whilst the building is of a simple rectangular form the curved roof form adds some further mass and visual interest to the building whilst not detracting from the inherent curved roof form of the wider development. The roof is proposed to be constructed from rolled steel with upstanding seams in a dark grey colour which will add a contemporary element using traditional colours.

It is important to note the implications of the difference in the site level and the level of Coventry Road. The site is approximately 1.3 metres lower than Coventry Road and therefore the lower elevations of the building will not be as visible as the roof mass and as such there is a need to ensure that the roof of this building is as interesting as the elevations.

The proposal does include a fin feature to the roof of the building and whilst this feature does rise above the roof and does act as a trade mark element of the KFC brand, it does

compliment the curved form of the roof upon which it sits. Additionally, it does act as a form of advertisement that is integral to the buildings form and therefore will appear comprehensive to the building and will negate the need for extensive free standing advertisements of the Coventry Road frontage. The reluctance for the Borough Council to accept further extensive advertisements at this site has been discussed with the applicant who advises that they would have no desire should the fin feature be acceptable.

The amended plans received show a minor modification to the roof whereby the curved roof continues down over the originally proposed flat roof above the food dispatch window and office. The continuation of the curve over this element of the structure not only removes the unsightly flat roof section that would be seen from above because of the level difference of Coventry Road, but also adds an interesting and bespoke element to structure.

The elevations of the buildings are a combination of cladding panels and glazed sections, whereby the glazing is to the restaurant element to allow both views in and out of the restaurant. The amended plans have further developed this mix of panels and have extended the amount of glazed panels along the north and south elevations. The use of a large amount of glass in these locations adds a greater degree of natural surveillance over the outdoor areas and gives the building a higher quality appearance. The cladding panels will generally be in the red and grey shades.

Brief details of landscaping of the site have been supplied however these are not specific to this development and are not considered sufficient and as such further landscaping details are required by condition.

The application does propose an outdoor eating area between the east elevation of the building and the boundary hedgerow and the canal towpath. This area is well secluded from view from Coventry Road and therefore there is no objection in principle to this area. The exact detail of this area will be controlled by condition.

On balance, whilst the building still retains the appearance of a branded element of the KFC group, it is a high quality approach that will appear well on this mixed use gateway site to Hinckley.

#### Impact on the Conservation Area

The proposal is located to the west of the Ashby Canal Conservation Area and the earlier appeal and refusals of permission considered the impact the wider development of the Tungsten Park proposal would have on the character and appearance of the Conservation Area.

In considering whether the current proposal is an acceptable form of development in this location the starting point is that of the 2007 permission, and in particular the car showroom building that was proposed to this plot. The approved car showroom was of two storey proportions and therefore a much greater scale than that now proposed in this application. Furthermore, it was proposed some distance closer to the canal than the current proposal.

Given that the canal side hedgerow is to be retained under controls of the earlier 2007 permission and that the hedgerow does provide extensive screening between the canal and the application site, there is no suggestion that the proposed development will have any greater adverse impact on the character and appearance of the conservation area than the previously approved car showroom building. On this basis the development is considered acceptable in this respect.

Due to the sensitivity of the east facing elevation of the building controls will be put in place to ensure that any ancillary developments such as the outside seating area, surfacing, lighting and bin stores will be strictly controlled to ensure there is no arising adverse impact upon the conservation area.

For the avoidance of doubt there is no physical access from the application site and the canal towpath.

### Impact on Neighbours

Again the starting point for considering the acceptability of the use is to compare it to the previous vehicle based use that is approved for this site.

At the most basic level the proposal seeks to add another use to an already diverse mix in the wider locality. In the immediate area there are residential properties, a pub, restaurants, a hotel, a petrol filling station, a marina, a car dealership and industrial estate and the commercial use both currently in business and those approved on Tungsten Park. In short the immediate area has no recognisable singular use and is very much a mixed use area. Notwithstanding that due consideration needs to be given to ensure there is no material conflict between the existing and proposed uses and the most likely place for this to exist is with the nearby residential properties.

The nearest residential dwellings to the application site are no. 391 Coventry Road to the west (at 69 metres); and no. 390 Coventry Road (at 39 metres) and no. 419 Coventry Road (at 81 metres) to the south.

The addition of another food based use in the locality is not considered to result in any direct conflict with any of the nearby residential properties due to the separation distances that existing between the application site and those nearby dwellings. Furthermore, consideration is given to the fact that the application site is somewhat lower than Coventry Road and as such is not likely to have any impact on the properties to the south of Coventry Road and they are naturally screened by both the level change and Coventry Road.

No.391 Coventry Road (to the west of the application) may be impacted upon the most by the proposal, but due consideration must be given to both the comparison between the approved use and the proposed use, the approved car showroom and workshops adjacent to this property.

When considering the comparison between a car showroom and workshop and a restaurant there can be very little comparison in terms of noise pollution. The approved car dealership to which this application seeks to replace and the approved dealership adjacent to the side boundary of no.391 would result in the associated noises that car workshops inherently create which are considered much more harmful to the amenities to nearby residents that the general coming and going of people either in the car or on foot to the proposed restaurant.

Furthermore, the fact that the approved car dealership and the spine road will somewhat stand between no.391 and the proposed restaurant would further reduce any possible and measurable noise impact.

In considering the issues of vehicle movements the associated impact this will have on residential amenity, the accompanying transport assessment seeks to demonstrate that this will be significantly less than the approved car showroom as such it cannot be concluded that any increase in vehicles movements will occur and therefore this cannot be to the detriment of residential amenity. The antisocial behaviour issues that sometimes arise through loud music playing in cars is not a material planning consideration and as such is tackled and controlled under other statutory controls. Notwithstanding this point, the proposed car park should it facilitate such antisocial behaviour is considered to be sited an acceptable distance away from the nearby dwellings to mitigate any impact.

The nature of the proposed use may give rise to people ordering food and eating it within the cars parked within the proposed car park or within side streets. Whilst this may be the case particularly at busier times or in inclement weather, the arising issues that may impact on residential amenity, by virtue of the separation distance from the car park to the adjacent

dwelling, means there would be no adverse impact upon amenities. Issues of anti social behaviour and loud music from cars could already exist within the public highway and are not considered to be directly associated with the proposal and are therefore not a material consideration in the determination of the application.

In summary the normal use of the proposed facility is not likely to result in any material detriment to residential amenity in this mixed use area, however to ensure this is the case careful consideration of the proposed opening hours is required. The application proposes the following opening hours:

Monday to Friday	0700 to 2300
Saturday	0700 to 0100
Sunday	0700 to 2300

On face value these hours are considered slightly excessive, particularly the 0100 (1am) opening time on a Saturday evening/Sunday morning); and it is reasonable to suggest that they are therefore beyond the normal scope of the hours to which restaurants are open.

At the time of writing the report the proposed hours of opening are being discussed with the applicant with a view to standardising them to be more in line with the mix of uses in the area (as discussed earlier in this report) and the operating hours of the adjacent uses in particular those facilities on Tungsten Park and the nearby pubs and restaurants and the outcome of the negotiations will be reported as a late item. In light of these negotiations, it is important to note that the nearby pub and restaurants (Similar and Brewers Fare) are unrestricted other than by the licensing opening hours, these generally close at around 11 am in the evening.

The issue of the proposed use giving rise to further littering in the locality is a crime and is therefore not a material planning consideration. Notwithstanding this Tungsten Park is committed to ensuring adequate litter bins are provided within the site to ensure littering is not a problem. The applicant is also keen to stress that it is within his interest to ensure littering is not a problem as it gives the wrong image of the site, the Conservation Area and Hinckley as a whole and this is something that he is keen to promote positively because of the direct impact the right image has on the occupation of Tungsten Park.

The proposed restaurant use included the provision for ventilation and extraction systems within the roof space of the structure with air inlets and exits on the north side of the building. Accordingly, it cannot be demonstrated that any detriment would arise in terms of noise and odour from the kitchen.

### Other Matters

The Directorate of Chief Executive (Ecology) confirms that there is no known ecological interest within the site and the issues of water vowel habitat was fully explored in the earlier applications.

Concern has been raised that the development may result in the pollution of the canal and the surrounding landscape. Whilst there is a risk of pollution from all commercial development there is no reason to suggest that the proposed restaurant use will be any more harmful than the adjacent mixed uses or the approved commercial uses on Tungsten Park. The Head of Community Services (Pollution) raises no objection in respect of ground pollution. The restaurant will need to be constructed in accordance with building regulations which will ensure appropriate drainage is provided to prevent runoff to the canal.

Concerns about the need for additional signage for the site in the future are shared by officers, but as highlighted in the earlier sections of this report the applicant has been encouraged to include advertisements within the fabric of the building which will give the local planning authority greater control in the future over resisting unnecessary signage proliferation surrounding the site. Land and property values are not material planning considerations.

## Conclusion

This proposed drive through restaurant does represent a departure from the existing commercial based development of this site. However, the commercial development of the site was won on appeal and is not subject to stringent planning policy controls which would prohibit as a matter of principle such a use. Accordingly, the acceptability of the proposal lies with the generic development plan policies and the other material considerations relevant to the development and the site.

On balance and having considered all material considerations, subject to the resolution of those matters detailed in the report and conditions the proposal is considered to result in a much needed high quality development on this prominent and underdeveloped site on a key access route into Hinckley that is generally compliant with development plan policy and will preserve the character and appearance of the adjacent Conservation 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 and would not be to the detriment of visual or residential amenity, highway safety or the character and appearance of the Ashby Canal Conservation Area.

Hinckley & Bosworth Borough Council Local Plan (2001):- BE1, BE7, REC6, T5, EMP4  
Hinckley & Bosworth Borough Council Core Strategy (2009):- Policy 1

- 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: 6605/10/A, KFC/2220: PSL 1 rev c, PSL2 Rev D and PSL3 rev a.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed restaurant shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:-
  - i) proposed finished floor levels and site levels
  - ii) means of enclosure and boundary treatments
  - iii) hard surfacing for access, drives, manoeuvring spaces and parking spaces
  - iv) other vehicle and pedestrian access and circulation areas.
  - v) minor artefacts and structures (including details of the proposed outdoor eating spaces and outdoor lighting)
  - vi) retained historic landscape features and proposals for restoration, where relevant.
  - vii) planting plans
  - viii) written specifications
  - ix) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
  - x) implementation programme.

- 5 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 6 No development shall commence until details of the disposal of surface water and foul water have been submitted to an approved in writing by the Local Planning Authority. The approved details shall be fully implemented before the first use of the restaurant hereby permitted and shall remain thereafter.
- 7 Before the first use of the restaurant or drive through facility hereby approved, the access and all vehicle manoeuvring spaces and routes and vehicle parking spaces shall be fully provided and surfaced in accordance with the details approved by condition no.4 above and maintained this way 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&5 To ensure the development assimilates with the surrounding landscape. In accordance with the requirements of Policy BE1 of the Adopted Hinckley and Bosworth Local Plan.
- 6 To ensure satisfactory provisions are made for the drainage of the site to protect the ground and water environments in accordance with the requirements of Policies BE1 and NE14 of the Adopted Hinckley and Bosworth Local Plan.
- 7 To ensure that adequate car parking and servicing facilities will be available to serve the premises when they are brought into use. In accordance with the requirements of Policy T5 of the Adopted Hinckley and Bosworth Local Plan.

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 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:-** James Hicks Ext 5762

**Item:** 03

**Reference:** 10/00518/OUT

**Applicant:** Goodman Real Estate (UK) Ltd

**Location:** Land Bounded By The Ashby Canal, Railway Line And Bridge Street, Incorporating The Former Johnsons Factory Burbage Hinckley Leicestershire LE10 2ND

**Proposal:** MIXED USE DEVELOPMENT COMPRISING UP TO 375 DWELLINGS, EMPLOYMENT (USE CLASSES B1a, B1c, B2 and B8), LOCAL CENTRE (USE CLASSES A1-A5 AND D1), LIVE-WORK UNITS, WORKS TO SKETCHLEY BROOK CORRIDOR, REMODELLING OF LAKE AND ASSOCIATED OPEN SPACE, PARKING AND ACCESSES (OUTLINE - ACCESS ONLY)

**Target Date:** 8 November 2010

**Introduction:-**

This is an outline application for a mixed use development comprising up to 375 residential dwellings, employment units, a local centre, works to the Sketchley Brook Corridor, remodelling of a lake and associated open space, parking and access including the creation of a new roundabout on Rugby Road.

The application site extends from Logix Park in the west to Rugby Road Park in the east bounded by the Birmingham to Leicester Railway line to the north and by Severn Trent Water Waste Water Treatment Works and existing residential development on the edge of Burbage to the south. From west to east the site comprises firstly, Jericho Farm which consists of a number of derelict agricultural buildings and surrounding agricultural land extending from the Ashby Canal in the east and bound by the Sketchley Brook to the south with the Severn Trent Waste Water Treatment Works beyond. The northern boundary is formed by the railway line with properties on Westfield Road beyond.

To the east of this is a small reclamation yard accessed by a level crossing. Beyond this is the now demolished factory formally occupied by Nelson Burgess and an adjacent field formally a recreational area for staff. This is bound by the railway line with residential properties beyond to the north, Brookfield Road and Severn Trent to the south and Burgess Architectural Products, which is outside of the application site, to the east.

Across Brookfield Road from the Nelson Burgess site and extending east to the Rugby Road is land associated with the former Johnsons factory. This site has largely been cleared of buildings with operations moving to Logix Park. The site is bounded by Brookfield Road to the north with Burgess Architectural Products and adjacent car mechanics and sales businesses. To the south the boundary is formed by the rear gardens of residential properties on Dudley Rise, Garden Close, Hillside Road and Applebee Road. This part of the site includes two water bodies used by the factory which are dissected by a public footpath.

Further to the east the site extends across the Rugby Road to include the Rugby Road Park which is owned by the applicant but managed by Burbage Parish Council and adjacent land and buildings which are currently occupied by a dry cleaners. This part of the site is bounded by the railway line to the north and residential properties on West Close and Bridge Road to the east and Brookside to the south.

The application proposes a new roundabout on the Rugby Road to provide access to the site. To both sides of Rugby Road at this point the application proposes what it terms the 'Fulcrum', a mixed use area of housing, offices, local shops and services and associated

parking. This would include the retention of the former Johnsons' power house and engine house as part of this mixed use area.

The Rugby Road Park is proposed to be improved with the creation of a multi use games area (MUGA) with changing facilities and a comprehensive landscaping scheme.

Beyond the Fulcrum extend two areas of residential development. To the north, largely on the existing Nelson Burgess site, is a residential development termed 'Streetside' which would accommodate houses at a density of 40-45 dwellings per hectare at up to three storey in height. To the south, a residential area termed 'Garden Suburb' would be developed at 30-35 dwellings per hectare at predominantly 2 storey with 3 storeys at key points.

These two areas would be separated by the Sketchley Brook which would be opened from its culvert and provide a green corridor through the site. This would include areas of informal open space and a local equipped area of play. The green corridor would extend to a pond in a similar position to the existing southern body of water.

To the west of streetside, on the Jericho Farm site, would be a mixed employment area of smaller units of use classes B1c (light industry), B2 (general industry) and B8 (storage and distribution). This is proposed to be at a maximum height of 15 metres. Beyond this would be an area of larger buildings for use class B8 only, to a maximum height of 21 metres. Facing the canal would be offices associated with these B8 units to a maximum height of 10 metres.

The industrial units would be accessed from the A5 through the existing Logix Park on a road proposed to run parallel to the Brook. While this would connect to the residential road network to the south of streetside, a bus gate is proposed to prevent any connections except for public transport. Alongside the road and Brook a footpath and cycle way would connect through to the green corridor allowing a direct connection from Logix Park through to Rugby Road.

The application is in outline form with access for consideration at this time. Therefore the position and design of the accesses, the types, amount and broad distribution of uses along with the building parameters including maximum heights are for consideration at this time. The remaining matters, scale, appearance, layout and landscaping are reserved.

The application has been subject to extensive pre-application discussion which has resulted in a Planning Performance Agreement. This has agreed a timetable for the submission and determination of the application following pre-application input from the major consultation bodies. The application has also been subject to a scoping opinion under the Town and Country Planning Act (Environmental Impact Assessment) Regulations 1999. The application has been accompanied by an Environmental Statement and therefore is to be determined in accordance with these regulations.

The application has been supported by the following documents:-

A Design and Access Statement sets out the context to the application and the analysis and design principles before detailing the proposals by way of a Development Framework, Masterplan and character area plans for eleven different parts of the proposals. Detail on the control over implementation and long term management is provided before the document concludes that the masterplan is appropriate for its site and surroundings.

A Planning Statement sets out the Environmental Assessment process and policy background which has led to the development of the masterplan. Further sections detail the development framework and character areas and set out details of pre-application community involvement.

Draft Heads of Terms are set out in the Planning Statement as a contribution in cash or kind towards health care facilities, delivery and management of the Sketchley Brook Corridor,

contributions to education, affordable housing, other community infrastructure, a financial contribution towards a canal bridge and connective paths and a financial contribution towards improvements to the train station. Public art and the retention of the power house are also referenced. Transportation obligations are set out as improvement to existing junctions, public transport enhancement and a Green Travel Plan. The prospective transfer of Rugby Road Park and the Hinckley Wharf following schemes of enhancement are also included.

The Green Infrastructure Strategy sets out the broad principles for Green Infrastructure Provision to assimilate the development into the broader context and landscape. It considers a baseline landscape and townscape character and the ecology on the site before setting out the proposals for Green Infrastructure focused on the opening up of the Sketchley Brook corridor and a series of other connected green spaces through the site.

The Environmental Statement assesses the following environmental issues: landscape and visual affects; ecology; noise and vibration; flood risk and drainage; transportation and accessibility; archaeology and cultural heritage; ground conditions and contamination; air quality and light. A Non-technical summary of the Environmental Statement has also been submitted.

The Transport Assessment details an assessment of the existing and proposed trips from the site and the potential impact on 13 nearby junctions. Proposals for mitigating the impact on the A5 at Dodwells Roundabout and the Longshoot junction are set out and mitigation to the Hawley Road junction by way of signalisation. It also details the new roundabout to the Rugby Road providing access to the site and the stopping up of Brookfield Road at its junction with Rugby Road and the reconnection of Brookfield Road through the site. Proposals also include funding for bus service 74 to serve the site and provide a bus gate to allow a public transport only connection though the site.

The Travel Plan Framework forms the first part of the Travel Plan for the development which will set out ways in which the scheme and its occupiers can reduce the number of vehicle trips by promoting more sustainable travel options. It considers methods to reduce the need to travel, methods to increase travel by foot, cycle and public transport and measures to reduce vehicle use. The redirection of route 74 through the site, provision of bus stops on the new roundabout and improved routes to the train station are proposed.

The Sustainability Assessment incorporates a Sustainability Statement, a BREEAM pre-assessment report, an Energy Statement and a Sustainable Waste Management Plan. These set out that a BREEAM level of Very Good and Code for Sustainable Homes Level 3 are achievable for this site.

The Flood Risk Assessment highlights existing flooding on the Jericho Farm part of the site and models the proposed daylighting of the brook as part of the development proposals. This concludes that the current situation would be improved following the works. A surface water drainage strategy is proposed which includes sustainable urban drainage principles and attenuation basins located in the green corridor. The layout ensures all development remains outside the 100 year plus climate change floodplain extents. The document considers that the scheme will provide improvements to flood risk to the site itself and the local area.

The Statement of Community Involvement sets out details of the pre-application discussion with various bodies, the public exhibition held in March 2010 on the site and the supporting static displays which were erected at the Council Offices, Hinckley Library and the Parish Council. The statement details a summary of the 127 comments received of which 86.7% were deemed supportive, 11.8% unsupportive and 1.5% non-committal.

Following the comments received on the initial consultation further information has been submitted by the applicant and is subject to a further full consultation. This additional information consisted of:-

A paper clarifying the loss of employment land and its replacement within the scheme.  
Further details on the alterations to the Sketchley Brook to provide the access from Logix Park.

A letter to Sport England clarifying the proposals for Rugby Road Park.

A response to the comments raised by Natural England and the Chief Executive, Leicestershire County Council (Ecology) including an Aquatic Plant Survey.

A scheme for trial trenching in response to the comments from the Chief Executive, Leicestershire County Council (Archaeology).

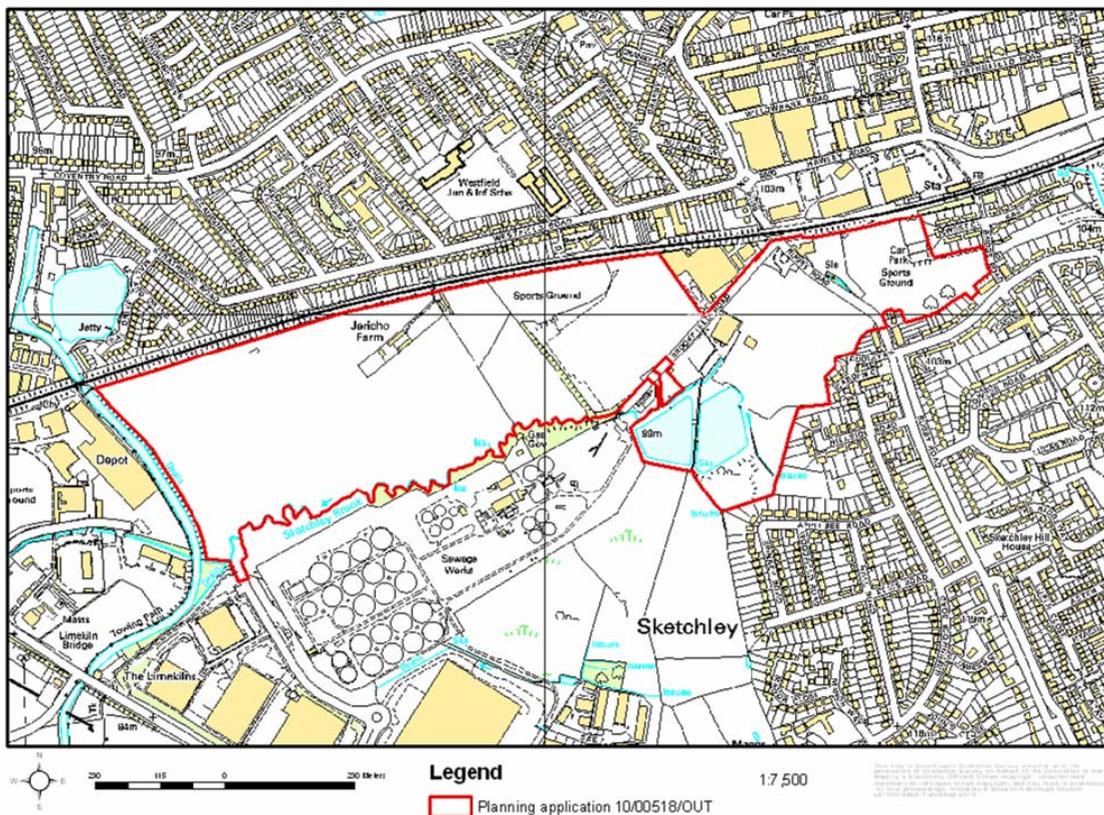
A response to comments raised regarding noise and air quality.

Details of alterations to Dodwells Roundabout have also been submitted.

These alterations also sought to clarify the description of development by including B1a (Office) within the description.

## History:-

Various minor applications concerning the previous use of the site.



## Consultations:-

No objection has been received from Rugby Borough Council.

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

The Chief Executive, Leicestershire County Council (Archaeology) comment that the geophysical survey has indicated the potential for the presence of buried archaeological remains but their character and significance is uncertain. A phase of archaeological trial trenching is requested before this application is determined.

The Director of Highways, Transportation and Waste Management (Highways) has issued draft comments which raise no objection subject to conditions. They have requested that safety audits are undertaken on two alternative solutions to mitigate the increase in traffic at

the Hawley Road/Rugby Road junction. The application has proposed a signalised solution whereas the County Council have proposed minor alterations to the roundabout at this junction and more significant alterations to the Brookside / Rugby Road junction to improve traffic flow along the Rugby Road as a whole.

The Director of Community Services (Rights of Way) comments that public footpath U64 runs through the site and requests a condition to ensure that the footpath is retained and surfaced for a minimum width of two metres with one metre grass borders on either side. Free access shall be retained along the route of the footpath during the construction of the development.

The Chief Executive, Leicestershire County Council (Ecology) states that they are disappointed to see the proposed loss of one of the two large ponds which have previously been designated as being of Parish Level importance. The aquatic vegetation present in the ponds as reported in the submitted reports is questioned. Concerns are raised regarding the proximity of the road to the brook and further information is requested on the opening of the Brook from the culvert. They comment that they are pleased to see the proposed wetland habitat and that surveys for white-clawed crayfish in the water bodies and great crested newts on un-surveyed ponds are required. They accept the comments and recommendations of the application reports with regards to water voles and otters, bats, reptiles and badgers.

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

- a) Director of Community Services (Ecology) – request no contribution as planting is included within the scheme.
- b) Director of Children and Young People's Service (Education) – comment that the development generates 74 primary pupils, 31 high school and 31 upper school pupils. The comments assess the availability of places in surrounding schools and concludes that requests can be made for the primary and upper school sectors. The request towards primary places is £893,281.38 and towards upper school places is £563,508.13. Therefore an overall contribution is requested of £1,456,789.51.
- c) Head of Commercial and Support Services (Libraries) – Request a contribution of £27.18 for one-bed dwellings, £54.35 for two-bed and £63.41 for dwellings larger than two bedrooms towards Hinckley Library. The request states that the current available public space is below the Museums Libraries and Archives Council's current standard and that the residential element would require an additional 9,600 items of stock to mitigate the impacts of the proposed development on the service.
- d) Director of Highways, Transportation and Waste Management (Civic Amenity) – Request £45.19 per unit towards improvements at Barwell Civic Amenity Site. The residential element of the scheme would generate an additional 127 tonnes of material and improvements to increase the capacity would be required to mitigate this impact from the development.
- e) Director of Highways, Transportation and Waste Management (Highways) – Request travel packs and bus passes, new bus stops within the site and improvements to the nearest bus stops, information display cases, a travel plan, a contribution towards low floor buses, bus shelters and a contribution towards real time information.

The Primary Care Trust request a per dwelling contribution of £583 per one or two-bed dwelling, £1167 per 3 or 4 bedroomed dwelling and £1750 per five bed property. They state that Burbage surgery has serious capacity issues with the GP to patient ratio above that expected.

The Leicestershire Constabulary Crime Reduction Officer recommends that the residential element applies for Secured by Design status. Comments regarding the security of dwellings

in the indicative layout are raised. A request is also made for a contribution of £606 per dwelling and £7 per square metre for commercial property towards capital facilities and equipment such as new or supplementary buildings to house resources, or to facilitate community participation and engagement, vehicles and improvements to communication infrastructure.

The Cyclists Touring Club raises no objection and states that they are pleased to see a through cycling route from the A5 to Brookside.

The Highways Agency initially directed that planning permission should not be granted until further information was submitted to ensure the A5 Trunk Road continues to serve its purpose as part of the national system of routes for through traffic. Following further meetings, a scheme of alterations to the roundabout has been agreed and further comments from the Agency have removed the direction and recommended conditions.

Sport England have issued a holding objection and request further detail on the loss of the playing field adjacent to the railway line and seek further detail on other proposed changes to the sports provision. They comment that a financial contribution towards sport should be requested.

Natural England object as inadequate information has been provided to demonstrate that the development would not have a detrimental impact on great crested newts as water bodies within 500 metres of the site have not been surveyed. Furthermore, they object on the grounds that inadequate information has been provided to demonstrate that the development would not have a detrimental impact on bats as a building with potential bat access points has not been surveyed. No details are provided on the number of nocturnal surveys and the conditions at the time of the surveys.

They also comment that they support the proposed enhancements to the water body and the creation of balancing ponds designed to enhance biodiversity. They recommend that measures are put in place to prevent the accidental entrapment of badgers and an update survey for water voles prior to commencement of development. They support the woodland planting and enhancements to the Sketchley Brook corridor. They seek assurance that open space provision will meet their own standards and that connections to the wider countryside are made. They state they have no objections to the proposals on landscape grounds.

The Environment Agency object to the scheme stating that the proposal to revert the culverted part of the Sketchley Brook back into an open meandering channel watercourse in a green corridor is welcomed, however, the proposed site access crossing of the brook and plot access road junction forming the Logix Park entrance is unacceptable. They state that the site access road should be 8 metres away from the top of the bank, that there would be a diversion of flows away from the Severn Trent Sewage Works, restrict essential maintenance and emergency access to the watercourse and result in the loss of flood plain storage.

The Environment Agency also request further details on the Rugby Road culvert and that conditions are attached regarding a remediation strategy for contaminated land works.

Network rail raise no objection but specify requirements to be met to ensure the safe and free operation of the railway during the proposed works or from the subsequent development. They request an unspecified contribution towards train station improvements.

British Waterways comment that there is little space on the far side of the canal for a bridge to be accommodated on the tow path and a build out into the canal may be required. They add that the existing tow path is not adequate to provide a cycle way. They raise no objection to the proposed Sustainable Urban Drainage Scheme (SUDS) to mitigate the run off from the development to the brook to prevent the need for an upgrade of the existing culvert under the canal being required. They highlight the need for the SUDS scheme to be maintained.

They consider that the proposal to locate a significant landscaped open space on the western boundary of the site abutting the offside bank of the canal is appropriate and will help to protect and enhance the character of the canal corridor and maintain its role as a valuable wildlife corridor. They consider that the buffer this space creates also helps to minimise the visual impact of the proposed large office/industrial buildings beyond. They raise no comment on the suggestion that visitor moorings could be provided on the canal at this point as they do not form part of the application.

The Inland Waterways Association state that they are pleased to note that the outline plans show a substantial area of landscaped green open space alongside the canal laid out as a pocket park with public access, tree planting and biodiversity enhancements. The industrial buildings are shown set well back from the canal with offices fronting the park and facing the canal. However they comment that to narrow the canal in order to provide a footbridge would not be acceptable and that the bridge could be accommodated further to the south subject to the agreement of the landowner. They also request contributions for a ramped access to the western side of the canal and an upgrade of the towpath.

Burbage Parish Council objects to the application stating that the amount of traffic from Rugby Road would create a bottle neck at the railway bridge. The comments suggest that the replacement of the Flude roundabout with traffic lights would alleviate the traffic flow problems and also suggest creating a second access through the railway line. Concern is also raised regarding the number of dwellings proposed and the capacity at nearby schools.

The Head of Community Services (Pollution) raises no objection but requests further information regarding noise from site preparation works and potential impact on neighbouring residents. Details of foundation techniques for the residential properties and phasing of the scheme are requested. Further consideration is also requested to be given to acoustic fencing to mitigate the noise from HGVs accessing the Severn Trent site and adjacent builders merchant. Conditions are recommended regarding noise, contaminated land, air quality and lighting.

Head of Community Services (Land Drainage) comments that further thought should be given to the proposed recreation of un-reinforced earth channels on sections of the Sketchley Brook presently conveyed in culverts.

The Head of Business Development and Street Scene Services does not object to the proposal but requests further consultation at the reserved matters stage.

Councillor David Bill has requested that consideration is given to the impact of the development on the rear of properties along Westfield Road and Strathmore Road and that tree planting or other landscaping is included in the plan along this boundary. He further requests that footpath links are made through the site linking the Rugby Road to the canal and Wharf including a bridge over the canal and that a direct footpath and cycle way leads to the railway station.

David Tredinnick MP objects to the application as the proposals have significant difficulties relating to access and transport matters and if permitted would have a major detrimental impact on the overloaded local road network. The loss of valuable greenfield land raises important matters of an extremely adverse impact on wildlife and biodiversity combined with a significant loss of amenity for the local community. Concerns are also raised regarding infrastructure and service provision and the need for the development.

Site notice and Press notice were displayed and neighbours notified.

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

- a) loss of views
- b) impact on existing traffic problems
- c) impact on local resources and infrastructure, schools, police, health

- d) environmental impact
- e) potential for flooding problems
- f) need for industrial development given empty units/other sites
- g) impact on value of property
- h) noise and light pollution
- i) loss of wildlife
- j) loss of privacy
- k) overshadowing
- l) traffic fumes
- m) no need for additional houses
- n) need for secure boundary fencing
- o) height of industrial units
- p) impact of roadworks on Rugby Road
- q) potential impact on public footpath.

A petition signed by 105 people has been received which states that ‘we feel that Hinckley does not need more housing or industrial units on greenfield sites when there are so many brownfield sites that already need redeveloping. Hinckley’s roads and public services are already overstretched, we worry about the impact this development will have on them.’

Burgess Architectural Products Ltd object to the proposal. They state that they have been in discussions with the applicant regarding the inclusion of their land within the application site but no agreement has yet been reached. As such, in order to protect the continuation of their business on the site they need to make a formal objection. They do not object to the principle of development but on the following technical aspects:

Noise – A noise consultant has been commissioned who considers that the application noise report underestimates the noise from Burgess.

Traffic – The submitted Transport Assessment has been assessed by a Transport Consultant who considers that the level of HGV traffic generated by Burgess has been underestimated. The stopping up of Brookfield Road will require this HGV traffic to use the residential / local centre road network. They state that the documents submitted with the application do not justify as to why the Transport Assessment reduces total site traffic levels by 50%.

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

Nuneaton and Bedworth Borough Council  
 The Ashby Canal Association  
 Leicestershire and Rutland Playing Fields Association.

The consultation period remains open at the time of writing and closes on the 4 November. Any further consultation response received before the closing date will be reported and appraised as a late item.

**Policy:-**

National Policy

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

The Planning System: General Principles forms a supplement to PPS1. This states that “planning applications should continue to be considered in the light of current policies. However, account can also be taken of policies in emerging Development Plan Documents. The weight to be attached to such policies depends upon the stage of preparation or review, increasing as successive stages are reached”.

Planning Policy Statement 3 - Housing sets out the national planning policy framework for delivering the Government's housing objectives. This document states at paragraph 12 that good design is fundamental to the development of high quality new housing.

Paragraph 40, under the title of effective use of land, states that “a key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has previously been developed”. Paragraph 41 sets out the national target to provide 60% of all housing on previously developed land. The paragraph continues to state that there is no presumption that land that is previously developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed.

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

PPS4 sets out the Government's national policies for economic development which includes employment, retail and community development but not residential development. The Statement sets out the overarching objective of securing sustainable economic growth.

Policy EC10 sets out that “Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably.”

Planning Policy Statement 9 - Biodiversity and Geological Conservation sets out planning policies on protection of biodiversity and geological conservation through the planning system.

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

Planning Policy Statement 23 – Planning and Pollution Control sets out national planning guidance on pollution of land, air and water.

Planning Policy Guidance Note 24 – Planning and Noise guides Local Authorities on the use of planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

Planning Policy Statement 25 – Development and Flood Risk aims are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk.

### Local Policy

#### Hinckley & Bosworth Core Strategy DPD (2009)

Policy 4 – Development in Burbage states that the Council will allocate land for the development of a minimum of 295 new residential dwellings, focused primarily to the north of Burbage adjacent to the Hinckley settlement boundary to support the Hinckley sub regional centre. The council will allocate land for development of 10 hectares of B8 employment land and 4 hectares of B2 employment land adjacent to the railway line as an extension to Logix

Park. A proportion of the B2 employment should be for start up businesses as supported by the Burbage Parish Plan. Reference is also made to the need to address existing deficiencies in open space provision, deliver the Green Infrastructure Network and deliver cycling routes.

Policy 5 – Transport infrastructure in the sub-regional centre sets out transport interventions which are proposed to support additional development in and around Hinckley. This includes improvements to the A47/A5 Longshoot junction and establishes a requirement for developers to contribute to these improvements. It also states that the council will support the use of the canal system for cyclists, walkers and other leisure uses. Where appropriate, developers will be expected to provide developer contributions to improve path surfacing.

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

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

Policy 20 Green Infrastructure states that the implementation of the Green Infrastructure Network is a key priority for the council and that the following strategic intervention to the Sketchley Brook Corridor will be supported:

Increase the biodiversity interest of the west of Burbage by bringing parcels of land along the Brook's route that are currently in poor or unmanaged condition under suitable management. Develop the Sketchley Brook corridor as an integral part of a wider access and green space project delivering recreational and biodiversity improvements along the east-west axis separating Hinckley and Burbage as part of a set of circular recreational routes.

Policy 24 requires all new residential properties in Burbage to meet Code Level 3 of the Code for Sustainable Homes.

Paragraph 4.2 sets out a target of 40% of development on previously developed land.

#### The Local Plan (adopted February 2001)

The site lies partly within and partly outside the settlement boundary of Burbage as defined in the adopted Hinckley and Bosworth Local Plan.

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

Policy EMP1a refers to existing employment sites and states that the Local Planning Authority will actively seek to retain these sites for employment purposes. The Nelson Burgess site is listed under this policy.

Policy EMP1b refers to existing employment sites and states that the council will support proposals for other employment activities, or alternative uses of the sites on their merits in the context of the appropriate design policies of the plan. These sites are considered to be acceptable employment locations. The Johnsons site is listed under this policy.

Policy EMP1c refers to existing employment sites where the Local Planning Authority will encourage alternative uses subject to the appropriate design policies of the plan.

Policy EMP3 designates land for employment development stating that planning permission will be granted for business, general industry or storage and distribution purposes on the following sites identified on the proposals map. The list of sites includes a 3.93 hectare site to the rear of the Johnsons factory, Burbage.

This policy also allocated land which has now been developed as Logix Park. Within the text supporting this policy the Local Plan states 'the principles for the layout of the site should also ensure adequate access via grass plots (Logix Park) can be provided to Jericho Farm to the north of the site. This is to ensure that the development potential of Jericho Farm beyond the period of this plan is protected'.

Policy REC1 seeks to protect land and buildings used for recreation and open space from development.

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

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

Policy REC6 states that a strip of land either side of the canal will be protected in order to provide a recreational and wildlife corridor. Public access to the corridor will be improved. Planning permission will only be granted for development within this corridor if it is in connection with the use of the canal; is of a high standard of design and is in keeping with the character of the canal; is not detrimental to sites of nature conservation and it allows for public access.

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

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

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

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

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

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

## Supplementary Planning Guidance/Documents

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

## Other Material Considerations

On the 27 May 2010 the Secretary of State for Communities and Local Government issued a letter to all Local Authorities indicating the Coalition Government's commitment to abolish the Regional Spatial Strategy and return decision making powers on housing and planning to local councils. The letter states that "decisions on housing supply (including the provision of travellers' sites) will rest with Local Planning Authorities without the framework of regional numbers and plans". The Secretary of State continues to confirm that the letter is to be considered as a material planning consideration in any decisions until a formal announcement is made on this matter. The Development Plan therefore now consists of the Core Strategy and saved policies from the Local Plan.

The Employment Land and Premises Study (May 2010) provides an update to the assessment of existing employment sites within Local Plan Policy EMP1. This considers the Johnsons factory and Nelson Burgess land as one site. It recommends that the site is reclassified to EMP1c with 50% of employment uses retained and 50% other uses allowed. It states that this forms part of the Sketchley Brook redevelopment scheme and that any employment land lost to other uses will have to be replaced elsewhere.

The Site Allocations Preferred Options Document was subject to public consultation during 2009. This highlights the application site as a preferred option for future mixed use development in Burbage (BUR1). It describes the application site as combination of brownfield and greenfield land, with the greenfield element being preferable to other greenfield sites as it forms a natural infill between Logix Park and Brookfield Road employment areas and does not have a significant impact on the surrounding area. The document proposes to allocate the site for residential development, employment (10 hectares B8, 4 hectares general industrial and some office provision), open space / green infrastructure and a retail and leisure element could be included. The document was subject to 13,500 responses and is being developed into a version for submission to the Secretary of State.

## **Appraisal:-**

The main considerations with regards to this application are: the principle of development; development in the countryside, impact on the amenity of neighbours; employment land; 5-year housing supply; access and impact on the highway network; developer contributions and affordable housing, ecology, sustainability and other matters.

The eastern part of the application site consisting of Rugby Road Park and the former Johnsons and Nelson Burgess sites are within the settlement boundary of Burbage while the remainder of the site, the land of the former Jericho Farm, falls outside of the boundary.

The part within the settlement boundary largely consists of the former Johnson's factory and Nelson Burgess site which are both protected employment sites within the Local Plan. They are also considered as 'Industrial units West of Rugby Road, Burbage' in the Employment Land and Premises Study (2010). The site considered in the study also includes the triangle of land between Brookfield Road and the railway line which is outside of the application site. The Study considers that the buildings are of average or poor quality and the Local Plan EMP1a category is revised to EMP1c where alternative uses are encouraged. It states that as part of the Sketchley Brook redevelopment scheme any employment land lost will need to be replaced elsewhere. It recommends that half of the site is retained for employment uses and half is available for other uses.

On the opposite side of Rugby Road the parcel of developed land between the railway line and the Park is also considered as an A category site within the Local Plan and reclassified through the Employment Land and Premises study to a C category. For this part of the site the study recommends that 100% of the site can be used for other uses.

The loss of the designated employment land is therefore acceptable in principle provided that the principal site remains available for employment use or is replaced elsewhere.

The Rugby Road park has historically been owned by Johnsons and managed by Burbage Parish Council it is therefore not in public ownership and is not protected under policy REC1. However, it is designated as an area of separation under Policy NE4. This policy seeks to provide separation between development areas and states that planning permission will not be granted other than for agricultural, horticultural community or sport and recreation uses. The proposals for this part of the site would be classified as sport and recreation and would therefore be acceptable in principle.

With regards to the part of the site that falls outside of the settlement boundary, while not specifically referring to this site, the Core Strategy refers to the need to allocate land for residential development in the north of Burbage, adjacent to the Hinckley settlement boundary, and for employment development adjacent to the railway line as an extension to Logix Park. The specific allocation of the site is proposed in the Site Allocations document but as set out above this is not formally adopted and therefore carries little weight at this point. As the Site Allocations document is not formally adopted it is considered that this part of the application site lies outside of the settlement and therefore should be considered against Local Plan Policy NE5, Development in the Countryside.

The proposals for the 'Fulcrum' which consist of 743 square metres of A1 use (shops) 1,394 square metres of A2-A5 use (financial and professional services, restaurants and cafes, drinking establishments and hot food takeaways), 464 square metres of D1 use (non residential institutions, such as a health centre) and 15 live work units are considered of a suitable scale to meet the needs of the new residents while not competing with the centre of Burbage or Hinckley. For comparison the nearby Lidl store is 1137 square metres and the recent permission at the Flude site permitted 1307 square metres of A1-A3 uses. The provision of a local centre of this scale is considered acceptable in principle.

### Development in the Countryside

Policy NE5, Development in the Countryside, states that the countryside will be protected for its own sake and that planning permission will only be granted for development that is either; important to the local economy and cannot be provided within or adjacent to an existing settlement; for change of use; or for sport and recreation facilities and then only when set criteria are met.

It is considered that the need for employment land in Burbage is established by Core Strategy Policy 4 and therefore this aspect of the development is considered to be important to the local economy. The Core Strategy also sets the location of the employment allocation as being adjacent to the railway line as an extension to Logix Park. Given the size of the allocation there are no other sites available within the settlement boundary and alternative sites adjacent to the boundary would not be in accordance with the location mentioned in the Core Strategy. The proposal is therefore considered to meet this first category.

Given the above, Policy NE5 now requires the development to be considered against criteria. Development is only acceptable where it does not have an adverse effect on the appearance or character of the landscape; it is in keeping with the scale and character of existing buildings and the general surroundings; where necessary it is effectively screened by landscaping and other methods and that traffic will not be generated which will exceed the capacity of the highway network or impair road safety.

In terms of the potential impact on the appearance and character of the landscape the part of the site that falls outside the settlement boundary is bound by urban development on all sides. The railway line and residential development bound the site to the north, the remainder of the application site and existing employment uses bound the site to the east, the Severn Trent works and Logix Park bound the site to the south with the Nutts Lane industrial estate to the east beyond the canal. The development of this remaining field is therefore not considered to have an adverse effect on the character and appearance of the landscape. The only connection to the countryside is via the canal, the scheme proposes to set back from the canal to retain an element of open character at this point.

While the exact siting, scale and design of the industrial units will be considered through the reserved matters application, the principle of employment development and the parameters for scale and height are considered at this stage. In terms of footprint, the proposed buildings are similar to those recently built at Logix Park. The height is proposed as being up to 21 metres high which compares with the highest building at Logix Park which is 20 metres.

Screening is proposed to be retained and enhanced to the all sides of the development though as this parcel of land does not form part of the open countryside as it is bound by urban form the need for this as envisaged by this policy is not considered relevant.

The potential impact on the capacity of the road network will be assessed in detail below however, no formal objection to the scheme has been received from Director of Highways, Transportation and Waste Management (Highways).

It is therefore considered that while the employment aspect of the scheme is positioned within the countryside the scheme is important to the local economy and cannot be provided within the settlement and is therefore acceptable under policy NE5. As this part of the site is surrounded by urban form and does not connect to the wider open countryside its loss is not considered sufficiently detrimental to the character and appearance of the countryside to warrant refusal. This aspect is therefore considered to accord with policy NE5.

Consideration should also be given to the allocation of the adjacent site for employment development through the Local Plan which has been developed as Logix Park. With regards to this allocation the local plan states at paragraph 3.7.14 'the principles for the layout of the site should also ensure adequate access via grass plots (Logix Park) can be provided to Jericho Farm to the north of the site. This is to ensure that the development potential of Jericho Farm beyond the period of this plan is protected'. This is reflected in Policy EMP3c which sets access to Jericho Farm as a requirement of the development.

### Employment Land

As set out above, the redevelopment of the existing designated employment land is acceptable in principle subject to the replacement of any loss. The main existing employment site extends to 13.21 hectares of which 11.89 form part of this application and will be lost.

The Core Strategy requires an employment allocation in Burbage, which this application is trying to address, of 10 hectares of B8 and 4 hectares of B2. The submitted Design and Access Statement sets out that 18.7 hectares of employment land are being proposed which consists of:-

19,509 square metres B1(c)/B2 (Light industrial / general industry)  
47,379 square metres B8 (Storage and distribution)  
1,858 square metres B1 (Offices)

The Employment Land and Premises Study recommends a density rate of 3900 square metres per hectare. Using this density the proposed square meters of employment space

would require 17.6 hectares, this compares well with the applicants statement that the employment development would require 18.7 hectares.

The proposed 18.7 hectares would therefore address the Core Strategy requirement for 14 hectares of employment and provide an additional 4.7 hectares towards the replacement of the existing site leaving a shortfall of 7.19 hectares.

This potential shortfall has been discussed with the applicant and it is considered that the replacement of the existing protected employment land could equally be considered in terms of jobs created as land. The previous level of employment at Johnsons and Nelson Burges has been estimated by the applicant to be 250. Using employment densities from the Employment Land and Premises Study the 4.7 hectares provided over and above the Core Strategy requirement would provide in the order of 448 jobs. The applicant has given additional weight to the potential for jobs to be created within the local centre in the proposed shops and potential community uses. However it is considered that while employment will be provided, only employment as defined by the B uses classes should be used in these calculations.

It can therefore be considered that while the application does not directly replace the lost employment land with new land in addition to the Core Strategy requirement, in terms of the historic employment level and the potential employment level on the additional employment land the proposed additional land is more than sufficient.

#### Five year housing land supply

Members will be aware of the current shortfall in housing land supply within the Borough despite recent approvals for residential development. Although recently updated, Planning Policy Statement 3 continues to require Local Authorities to identify and maintain a rolling 5-year supply of deliverable land for housing. In particular at paragraph 71 the PPS states 'where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites ... they should consider favourably planning applications for housing, having regard to the policies in this PPS including the considerations in Paragraph 69'.

The most recent Annual Monitoring Report shows a 303 dwelling shortfall in supply or a provision of four years and four months within the Borough. The lack of five-year supply therefore needs to be given considerable weight.

As set out above, paragraph 69 states that Local Authorities should have regard to; achieving high quality housing; ensuring developments have a good mix of housing; the suitability of the site for housing, including its environmental sustainability; using land effectively and efficiently and ensuring the proposed development is in line with planning for housing objectives reflecting the need and demand for housing in, and the spatial vision for the area, and does not undermine wider policy objectives.

The quality and mix of housing would be addressed through the details submitted at reserved matters stage. The site is suitable for housing in principle as the housing element of the proposals fall within the settlement boundary and the need to replace the loss of employment land is addressed as set out above and is accessible in principle.

The Design and Access Statement suggests residential densities of between 30-45 dwellings per hectare which demonstrates an effective and efficient use of land. The need for residential development in Burbage is established in the Core Strategy which sets out that a minimum of 295 new dwellings are required. While this scheme proposes up to 375 units it is considered that this aspect of the scheme does reflect planning for housing objectives and the spatial vision for the area. The additional housing is provided in addition to the required employment land and green infrastructure and therefore it is not considered to undermine any wider policy objectives for Burbage.

The proposal therefore meets the criteria set out in Paragraph 69 of PPS3 and therefore paragraph 71 would require that the scheme is 'considered favourably'. This will be a significant material consideration in the determination of the application.

#### Impact on neighbours amenity

The residential element of the scheme is considered to be acceptable in this respect as existing neighbouring residents were historically adjacent to an employment use or land allocated under Policy EMP3 for employment development.

The main concern is the impact of the proposed employment units on residents to the north of the railway line. Currently properties to the east of the level crossing are at grade with the line and the application proposes use classes B1c, B2 and B8 in this area in comparatively smaller units of up to 15 metres in height. Properties here are around 45 metres from the application site and a landscaped buffer of a further 15 metres depth is proposed. This distance combined with the potential to control the height and planting of this buffer through the reserved matters application is considered sufficient to mitigate the impact of the development on these residents. Residents facing this part of the scheme also face an existing reclamation yard and therefore less concern regarding the loss of view.

To the west of the level crossing, the railway line is on an embankment raising up to in excess of 5 metres. This is well planted on the application side of the line and most properties have planting within their back gardens to screen the railway line. The application proposes B8 units at this point of up to 21 metres in height. Properties are set around 55 metres from the application site and again a landscaped buffer of 15 metres depth is proposed. It is considered that through the controls of the reserved matters application to position to buildings suitably away from the boundary and agree a sufficiently deep and planted buffer the impact on these properties will not be detrimental.

The majority of properties on Mallard Drive will face the open space to be retained between the proposed industrial buildings and the canal and therefore will maintain their current outlook.

#### Access and Impact on the highway network

The scheme proposes two accesses to the site which are for determination within this outline application. Firstly, to the east access is proposed from the A5 through the existing Logix Park road network to the eastern end of the development site. Secondly, alterations are proposed to Rugby Road to incorporate a roundabout providing access to the residential and local centre to the west and the park and adjacent development to the east.

The final comments from Director of Highways, Transportation and Waste Management (Highways) are awaited however their interim comments raise no objection subject to conditions. They describe the site as being in a sustainable location as it is close to amenities and within walking distance of the train station. They consider that the scheme will generate traffic even when considering the historic traffic levels from the site and therefore mitigation is required on adjacent junctions.

The outstanding matter relates to the treatment of the Hawley Road / Rugby Road junction. The application proposed signalisation of this roundabout to mitigate the impact from the development however Highways have suggested that a solution retaining the roundabout and providing improvements to the Rugby Road / Brookside junction would be preferable. Both schemes have been subject to independent safety audits the results of which are now with the County Council to consider. Their preference for the improvements to Rugby Road will be set out in their final observations which will be presented as a late item.

The Highways Agency are responsible for the A5 and initially directed against approval as the application had not demonstrated that it will not have a detrimental impact on Dodwells

roundabout. Following further discussions a scheme of improvements to the roundabout has now been agreed and the direction has been lifted subject to conditions.

#### Developer contributions and affordable housing

As set out above requests for contributions have been received from Leicestershire County Council towards education of £1.45 million and contributions towards Civic Amenity and Libraries dependent on the final number and mix of dwellings. A request for various public transport improvements has also been submitted.

Requests for contributions have also been received from the Primary Care Trust, the Police, Sport England, Network Rail and the Inland Waterways Association.

These requests need to be considered in light of the Community Infrastructure Levy regulations 2010 and Circular 05/05. It is considered that the requests from the Police, Civic Amenity, Libraries and Network Rail do not meet these tests in that they do not demonstrate that there isn't sufficient capacity in the current facilities to meet some or all of the demands placed on their services by this development and they do not clearly demonstrate how any contribution would be used to mitigate this impact. Therefore these requests are not considered to be in accordance with the tests of the Community Infrastructure Levy and are therefore not supported.

The request from the Primary Care Trust also does not provide sufficient information. Further information has been requested as in this instance it is considered that the requirements could be met in that the need for improvements to Burbage Surgery are set out in the Core Strategy and that this scheme includes space for a community use such as a surgery.

The request from Network Rail relates to improvements to the train station given the additional demand, while the Inland Waterways Association request a contribution for a canal bridge and towpath improvements. Neither of these requests have been justified however both have been proposed by the applicant and discussions are continuing with highways as to whether these need to be delivered as part of a scheme of measures to reduce the need to travel by car as put forward in the Travel Plan Framework.

The other public transport related requests are covered by the Travel Plan framework and are required to make the scheme acceptable in highways terms.

It is considered that the request from Sport England duplicates the need through policies REC2 and REC3 for open space to be provided by the residential element of the scheme. The application includes improvements to Rugby Road Park, a large element of informal open space alongside the brook and the provision of an equipped area of play between the two residential elements and close to the local centre.

Policy REC2 would require 40 square meters of formal open space per dwelling to be provided on-site. As the Park already exists a financial contribution to be used for improvements is considered appropriate which would equate to £322.80 per dwelling. The maintenance cost for this to cover a 10 year period would be £264 per dwelling.

Policy REC3 would require the onsite provision of an equipped area of play at 5 square metres per dwelling and 15 square metres of informal space per dwelling. The maintenance of the equipped area for 20 years would be £70,700 for a 500 square metre play area which is the largest considered acceptable. The maintenance of the informal space would be £159 per dwelling however the application proposes a much larger area of informal open space of around 3.5 hectares. The maintenance for this area would be £318,530.

The Hinckley Wharf is also within the control of the applicant and the application proposes that this is transferred to the Borough Council. Discussions with the Estates and Assets

Manager have concluded that the adoption of this facility would be an additional strain on limited resources and its transfer to the current users of the site is suggested.

As set out above, Policy 15 of the Core Strategy would expect 20% of the dwellings to be provided as affordable housing with a 75% / 25% split between social rented and intermediate tenure.

The applicant has submitted a Viability Assessment to demonstrate that not all of these requests can be met by the development. It proposes that a contribution of £3,000 per dwelling and 7% affordable housing could be afforded by the scheme. The Viability Assessment has been subject to an independent assessment by Prospect Leicestershire who have concluded that the proposed affordable housing provision and S106 contributions appear fair and reasonable.

While the Viability Assessment is accepted, concerns have been raised with the applicant that notwithstanding the regeneration benefits of the scheme the levels of contributions suggested in the Viability Assessment are not considered sufficient to mitigate the impact on local services created by the development. Nor is the proposed level of affordable housing considered acceptable given that the waiting list in Burbage extends to 700 and this is the main residential scheme envisaged in the plan period that will provide affordable housing. The requirement for affordable housing from this development would be in the order of 75 units while the proposal equates to around 25 units.

The applicant has proposed to provide contributions in excess of that set out in the Viability Assessment however the precise figures and the split between the various requests are still being discussed with the applicant and the County Council. It is considered that an acceptable solution will be reached however the outcomes of these discussions will be presented as a late item.

### Ecology

Concerns have been raised by The Chief Executive, Leicestershire County Council (Ecology) regarding the loss of the water bodies on site. These are man made features used historically by Johnsons and therefore have limited ecological value. The application proposes that one is retained and remodelled to a more natural profile to provide an ecological benefit. Furthermore, both ponds are included in the Local Plan allocation for additional employment land at Johnsons and therefore their loss through that development couldn't be resisted.

Concerns have also been raised by The Chief Executive, Leicestershire County Council (Ecology) and Natural England regarding the impact of the development on great crested newts as water bodies within 500 metres of the development have not been assessed and a building had not been assessed as a bat habitat. Additional information has been submitted by the applicant to address these concerns and the revised comments from the consultees will be provided as a late item.

### Sustainability

The site is considered to be in a sustainable location with the residential element being on brownfield land and close to the services and facilities in Hinckley including being within walking distance of the train station. A network of footpaths and cycleways are proposed through the site which would connect the employment areas on the A5 through the site to the train station and the town centre.

The application includes details which confirm that a BREEAM Level 'Very Good' can be achieved for the employment buildings and that Code for Sustainable Homes Level three can be achieved for the residential properties. This is considered to exceed that required though Policy 24 of the Core Strategy.

### Other matters

The Chief Executive, Leicestershire County Council (Archaeology) has requested that trial trenching is undertaken prior to the determination of the application. This is currently ongoing and an update will be provided as a late item.

While no objection has been raised on grounds of noise further details have been requested by the Head of Community Services (Pollution). Additional information have been provided by the applicant and the consultees response will be presented as a late item.

The Environment Agency have objected to the scheme based on the proximity of the proposed access road from Logix Park to the Brook. Again, further meetings have taken place and additional plans have been submitted. The final comments of the Environment Agency will be presented as a late item.

### Conclusion

It is considered that the scheme provides a comprehensive mixed use scheme on a sustainable site close the services of Hinckley. The application has demonstrated that it meets the requirements set out in the Core Strategy for employment land within Burbage and the need to replace that lost through the residential development to the east of the scheme. While the application is in outline form for access only at this stage it is considered that the proposals indicate that a suitable scheme can be achieved to regenerate this part of Burbage and provide a suitable entrance to Hinckley when approaching from the south.

At the time of writing this report the issues that remain to be resolved are:-

The results of the safety audits on the two options for the Hawley Road junction and the final comments from highways.

The further comments from Sport England following additional information presented to address their concerns regarding the works to the Rugby Road Park.

The further comments from Natural England and ecology regarding bats and great crested newts.

Further comments from the Environment Agency concerning the proximity of the western access road to the brook.

Further comments from consultees regarding the additional information provided to address noise and air quality.

The completion of the archaeological trial trenching prior to determination.

The viability of the scheme and the agreement of contributions.

The outcomes from these discussions and consultation responses will be presented as late items. The application is recommended for approval subject to the resolution of these issues, conditions and a Section 106 agreement.

**RECOMMENDATION:- That subject to the objections from Natural England, Ecology, the Environment Agency and Sport England being removed and the outstanding highways, noise and air quality issues being resolved and no significant material observations being received by the end of the consultation period expiring on the 4 November 2010, the Deputy Chief Executive (Community Direction) shall be granted delegated powers to grant 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, affordable housing, the provision and maintenance of public play and open space facilities and education. Failure to do so by 2 December 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 and the completion of a legal agreement, the proposed development would be in accordance with the development plan as: it is a sustainable site within and adjacent to the urban area; would meet the identified need for residential and employment development in Burbage; would enhance the character and appearance of the area and would not be detrimental to the occupiers of neighbouring properties; and includes measures to mitigate its impact on the highway network and is not considered detrimental to highway safety.

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (2009):- Policy 4, 5, 15, 16, 24

Hinckley & Bosworth Borough Council Local Plan (2001):- Policies BE1, EMP1, RES5, T5, T9, REC2, REC3 NE2, NE5 and IMP1.

- 1 Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2 Approval of the following details (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced:
  - i) The layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development.
  - ii) The scale of each building proposed in relation to its surroundings.
  - iii) The appearance of the development including the aspects of a building or place that determine the visual impression it makes.
  - iv) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures.

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

- 3 The reserved matters application shall include the following information for the prior approval by the Local Planning Authority.
  - i) The external building materials
  - ii) The provision to be made for vehicle parking on the site
  - iii) The provision to be made for vehicle turning within the site
  - iv) The provision to be made for loading and unloading within the site
  - v) The method of disposal of surface and foul water drainage, which shall be on separate systems
  - vi) The existing trees and hedges on the site, which are to be retained
  - vii) The provision to be made for screening by walls and fences
  - viii) The phasing of the development
  - ix) The floor levels of all the proposed structures in relation to the existing ground level and the finished levels of the site.
  - x) The provision to be made for the storage of refuse and/or recycling facilities.

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

- 4 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:-

Access plans TBC

- 5 All boundary treatments, planting, seeding and turfing comprised in the approved landscaping details shall be carried out in accordance with the approved implementation scheme submitted with the reserved matters application. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species unless otherwise agreed in writing with the Local Planning Authority.
- 6 Before the commencement of development of the industrial units, a scheme for protecting nearby dwellings from noise from the proposed development should be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 7 No development approved by this permission shall be commenced until a scheme for the management of noise during the site preparation and construction works on the site has been submitted to and agreed in writing by the Local Planning Authority. Development shall then be carried out in accordance with the approved scheme.
- 8 Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.
- 9 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 10 No development approved by this permission shall be commenced until a scheme for the management of air quality during the construction works on the site has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details.
- 11 Details of any external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.
- 12 Prior to the commencement of residential development, a Code for Sustainable Homes Design Stage Assessment demonstrating that the dwellings hereby approved can be constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority. Prior to the occupation of the first dwelling of each of the house types hereby approved, a letter shall be provided to the Local Planning Authority by a

Code Assessor confirming that that dwelling has been constructed to a minimum of Code Level 3. Within three months of the completion of the development, unless otherwise agreed in writing with the Local Planning Authority, a final certificate demonstrating that the development has been constructed to a minimum of Code Level 3 shall be obtained by the developer and submitted to the Local Planning Authority.

- 13 Prior to the commencement of any phase of development, a scheme for targeting and utilising local people for construction and post construction employment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
- 14 No part of the development accessed from the A5 shall commence unless and until a detailed design specification for the improvements to signalisation at A5/A47 Long Shoot Junction described in BWB Transport Assessment NTH 089F Revision 7 (Section 10.3) has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highways Agency. The improvements shall be constructed in accordance with the approved details prior to the first occupation of any building on the site accessed from the A5.
- 15 No building on the site accessed from the A5 shall be occupied until the improvements at A5 Dodwells roundabout shown on BWB Drawing No. NTH/089/600 Revision P3 have been completed to the satisfaction of the Local Planning Authority in consultation with the Highways Agency.
- 16 The development hereby permitted shall take place in total accordance with the agreed Framework Travel Plan dated October 2010 and with reference SD/RE/NTH089 Revision 7.

**Reasons:-**

- 1 In the interests of sustainable development to accord with policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.
- 2 To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 3&4 This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.
- 5 For the avoidance of doubt and in the interests of proper planning.
- 6 To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 7 To ensure the development does not have an adverse impact on the amenities of surrounding properties in terms of noise to accord with Policy BE1 of the adopted Local Plan.
- 8 To ensure the construction of the development does not have an adverse impact on the amenities of surrounding properties in terms of noise to accord with Policy BE1 of the adopted Local Plan.
- 9&10 To ensure the safe development of the site and to protect amenities of future occupiers of the development to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.

- 11 To ensure the construction phase is not detrimental to the amenity or health of neighbouring residents to accord with Policy BE1 of the Local Plan.
- 12 To protect the appearance of the area, the environment and local residents from nuisance from artificial light to accord with local plan policy BE1.
- 13 To ensure compliance with Policy 4 of the Core Strategy.
- 14&15 To ensure that the A5 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from traffic entering and emerging from the application site and in the interests of road safety to accord with policy T5 of the Local Plan and Core Strategy Policy 5.
- 16 In order to minimise the use of the private car and promote the use of sustainable modes of transport in accordance with policy 1 of the Core Strategy and guidance in Planning Policy Guidance Note 13 'Transport'.

**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 6 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 A Section S61 agreement under the Control of Pollution Act 1974 should be considered as recommended in the submitted Noise Impact Report.
- 6 The applicant/developer is advised to contact the Third Party Works Engineers Team at the Fazeley Office on 01827 252000, in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways' Code of Practice for Works affecting British Waterways.

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

**Item:** 04  
**Reference:** 10/00453/FUL  
**Applicant:** Mr Paul Cresswell  
**Location:** Land Rear Of 38 Station Road Ratby Leicestershire  
**Proposal:** ERECTION OF SIX DWELLINGS  
**Target Date:** 10 November 2010

**Introduction:-**

This application seeks full planning permission for the erection of 6 No. two bed roomed semi detached dwellings and an area of open space on land south of Station Road, Ratby. The site is to be accessed from an existing hammerhead junction in The Pinfold.

The site is roughly rectangular in shape and is bound by residential curtilages to the north and east, by the former bakery to the north west and by open countryside and a tributary to the Rothley Brook to the south. Historically it is understood the site formed part of the extended garden to no.38 Station Road, however it has since been separated from the dwelling and now constitutes unused open land on the edge of the settlement.

The application is accompanied by a design and access statement, ecology report, flood risk assessment and a tree survey.

The design and access statement seeks to explain the design ethos of the development and justifies layout, siting and scale of the proposed dwelling. The statement also provides a commitment to provide two affordable homes as part of the development.

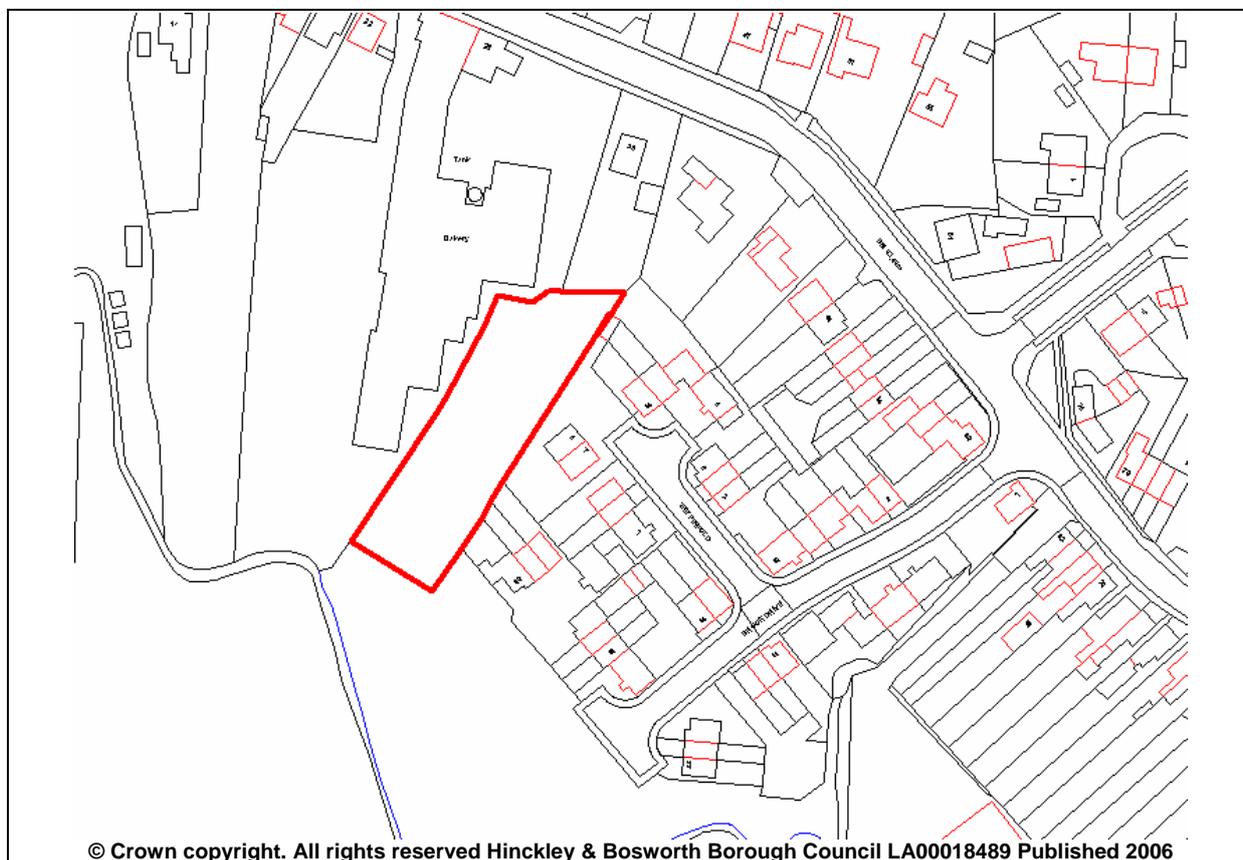
The ecology report considered the ecology interest of the whole of the site but does not identify any interest of protected species.

The flood risk assessment considers the current make up of the site and the flood risks arising from the development.

The tree survey identifies the presence of trees on the site makes recommendations as to which should be removed and which can be retained. There are no TPO's on the site.

**History:-**

None



**Consultations:-**

No objection has been received from:-

Environment Agency  
 Directorate of Chief Executive, LCC (Ecology).

No objection subject to conditions have been received from:-

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

Ratby Parish Council objects to the provision of further housing development in the village.

Site notice displayed and neighbours notified.

Five neighbour letters have been received raising the following concerns:-

- a) flooding
- b) drainage
- c) land levels
- d) inadequate infrastructure – roads, doctors, nursery’s
- e) traffic and parking
- f) LDF figures can now be scrapped
- g) precedent for further development
- h) loss of green space
- i) loss of unauthorised children’s play area
- j) dangers to children playing in The Pinfold.

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

Severn Trent Water  
Director of Environment and Transport (Highways)  
Cyclists Touring Club  
Head of Corporate and Scrutiny Services (Tree Officer)  
Head of Corporate and Scrutiny Services (Green Spaces).

## **Policy:-**

### National Planning Guidance

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

Planning Policy Statement 3: Housing (PPS3) sets out the national planning policy framework for delivering the Government's housing objectives. It seeks to achieve a wide choice of high quality homes to address the needs of the community and provide housing developments in suitable locations which offer a good range of community facilities and with good access to key services and infrastructure. This PPS promotes designs and layouts which make efficient and effective use of land, particularly the re-use of previously developed land.

Planning Policy Statement 25: Development and Flood Risk (PPS25) aims to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk.

The 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.

### Regional Policy

The Secretary of State has indicated his intention to abolish Regional Spatial Strategies (RSS) and laid down an order on 6th July to revoke them with immediate effect, accordingly very minimal weight should be attached to the policies of the East Midlands Regional Plan.

### Local Planning Policy

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

Policy 8 seeks to support local services in Ratby and ensure local people have access to a range of housing and amongst other things seeks to ensure that land for a minimum of 75 new homes will be allocated.

Policy 15 requires all new development of 4 dwellings or more in Ratby 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 Ratby 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.

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

The site sits outside the settlement boundary of Ratby and is therefore located within the Countryside as defined by the Local Plan.

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

Policy BE1 of the adopted Local Plan states that the Borough Council will seek to ensure a high standard of design in order to safeguard and enhance the existing environment and that planning permission will be granted where the development complements or enhances the character of the surrounding area with regard to design, materials and architectural features, and is not prejudicial to the comprehensive development of a larger area.

Policy REC3 of the adopted Local Plan requires an appropriate level of open space to be provided within development sites or, alternatively, a financial contribution to be negotiated towards the provision of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

Policy T5 of the adopted Local Plan refers to the application of highway design and vehicle parking standards.

Policy IMP1 of the adopted Local Plan seeks to ensure contributions towards infrastructure and facilities commensurate with the scale and nature of the development proposed.

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

#### Supplementary Planning Guidance/Documents

Supplementary Planning Guidance for Residential Development  
Supplementary Planning Document concerning Play and Open Space and Sustainable Design  
Landscape Character Appraisal.

#### **Appraisal:-**

The main considerations with regards to this application are: the principle of development; the five year housing land supply; impact on the character and appearance of the countryside; flooding & drainage, highways; siting and design, impact on neighbours, affordable housing; developer contributions, ecology and other matters.

## Principle of Development

The site lies outside of the settlement boundary of Ratby as defined by the Local Plan proposals map and is therefore considered as being in countryside. Policy NE5 seeks to protect the countryside for its own sake and states that planning permission will only be granted for development that is important to the local economy, for the change of use of existing buildings or for sport and recreation.

In accordance with Policies NE5 and RES5, residential development is not supported outside the settlement boundary. The application is therefore contrary to this policy unless there are material planning considerations that indicate otherwise.

## Housing Supply

The Hinckley and Bosworth Core Strategy was adopted in December 2009 and the housing figures contained in the Core Strategy were based on the figures set in the East Midlands Regional Plan. As part of the production of the Core Strategy the Borough Council took into account a number of evidence base documents which informed current and future levels of need and demand for housing.

One evidence base document used as part of the Core Strategy was the Leicester and Leicestershire Strategic Housing Market Assessment (SHMA). The Core Strategy document reflects the findings of the SHMA process. However, it reflects not just the document itself, which is fixed in time, but the ongoing process of understanding local housing markets, gathering evidence and data, and developing tools and models, which are likely to continue to evolve. The need for flexibility in response to housing market conditions and in different housing markets within the local authority area. As a result the SHMA provides robust and up to date evidence of housing need in the Borough. The Borough Council were part of the steering group for the production of this document and the authority provided a range of data sets to inform the assessment. The findings of the SHMA reflect the findings of the Regional Plan.

In addition, the Strategic Housing Land Availability Assessment informed the Core Strategy. The SHLAA provided background evidence on the potential supply of housing land within the Borough. This document provided evidence to underpin the deliverability of the Core Strategy, in particular to justify that sufficient deliverable land can be provided on a variety of sustainable sites across the Borough. It is the quantum of deliverable housing land that is critical in underpinning the housing strategy outlined in the Core Strategy. It provides evidence, in general terms, that sufficient deliverable housing land can be provided to meet the Council's preferred approach to future housing growth. This approach allows for all residents of the Borough to have access to a suitable home which they can afford in a range of sustainable locations (when combined with the other spatial objectives of the core strategy). Whilst the SHLAA forms a single evidence strand in pulling together a preferred housing strategy that is considered deliverable for the core strategy it is important to recognise that it provides vital information in a number of areas. It provides a quantum of available and deliverable land in a range of settlements which have been assessed against a number of constraints (i.e. environmental, topographical, access and ownership). Importantly it also considers a timeframe for potential development.

Whilst there is a commitment to do so, as yet the Regional Plan has not been formally abolished and still forms part of the development plan. No transitional arrangements have been produced and therefore the housing figures contained within the recently Adopted Core Strategy should still apply as there is a sound, tested and publicly examined evidence base that supports these figures. Notwithstanding this point, a pick and choose approach to the contents of the Core Strategy cannot be adopted at this stage, as this would leave the authority with voids in policy.

As the Council has recently adopted the Core Strategy, the housing figures contained in the Adopted Core Strategy should be used in decision making. The housing figures contained in the Core Strategy have been independently inspected and were found to be sound through public examination. In light of this the housing figures contained within the adopted Core Strategy are based on robust evidence and should continue to be used as part of the Borough Council's Adopted Development Plan.

The requirement for the Council to provide a five year supply of housing land was not removed from PPS3 in its recent revisions published in June 2010. As a result, the five year supply of housing land remains a material consideration in the determination of this and other planning applications. At the time of writing the report the Borough Council is unable to demonstrate a 5-year land supply and currently have a provision of 4 years 4 months and a shortfall of 303 dwellings.

In considering the shortfall in the land supply position, Policy 8 of the Core Strategy requires a minimum of 75 dwellings within Ratby during the plan period. The proposal being for 6 new dwellings would count towards the housing requirement for the settlement of Ratby as set out in the Core Strategy.

Whilst the Borough Council currently holds a shortfall in its 5 year housing supply this matter alone does not legitimise the approval of inappropriate and non-preferable sites. It is only one of many material considerations. However, whilst the council is taking active steps to curtail the lack of land through the Site Allocations process and the draft Site Allocations DPD has undergone preferred options consultation, the site will make a worthy contribution to the need for homes within Ratby and does benefit from support of the 5 year land supply argument. It should be noted that the application site was not supported as a preferred option through this process.

The outstanding appeal by Bloor Homes if allowed would satisfy the minimum target of 75 homes as set down by Policy 8, however it is unlikely that a decision will be received within the time frame of this application. Given that Policy 8's figures are minimum figures only and that the five year land supply would not be achieved alone by the Bloor's proposal, significant support should be given to this proposal in respect of housing supply.

#### Character and Appearance of the Countryside

As confirmed earlier in this report the application site lies outside of the defined settlement boundary for Ratby and is within the countryside. However, for the avoidance of any doubt it should be noted that the site does abut the settlement boundary.

The application seeks to demonstrate that the development of the site will not result in any adverse visual impact on the character of the area. It is important to note that by virtue of the very nature of the site being developed (as proposed) the appearance of the site and its immediate character will alter. The undeveloped character will be lost through the developed and urban feel of a residential development. However this said; the wider impact on the countryside must be considered given that the site is bound on three sides by urban development and built forms. Given that the site is enclosed on three sides and developed to a significant depth to both sides the proposed development is not likely to significantly alter the character of the edge of the settlement and therefore is not considered to result in an unacceptable site to be developed in this way.

#### Flooding and Drainage

To the south of the application site lies a tributary to the Rothley Brook which is known to flood at times of heavy rainfall and as such is a constraint of the development potential of the site. The accompanying flood risk assessment considers the extent of the flooding and has been prepared in conjunction with Environment Agency data. The development as proposed is outside of the likely flood zone and on this basis there is no objection from the

Environment Agency to the proposal. Whilst neighbour letters have been received concerning the flood risks that may worsen following the development the Borough Council must follow the advice of the Environment Agency in such circumstances. Understanding flood risk is a specialist matter upon which the Environment Agency is best placed to comment. The recommendations of the flood risk assessment will however need to be implemented on site and careful control over levels will be exercised.

Whilst under local arrangements drainage details are no longer requested, in this case drainage details will be required to ensure that no further adverse drainage and associated flooding issues arise from the development.

### Highways

The scheme proposes a new private drive from the existing hammerhead junction on The Pinfold. This drive will serve the development and will provide both pedestrian and vehicular access. The scheme provides two parking spaces per dwelling. For the dwellings to the north of the site the parking spaces are provided to the side of the dwellings and for those to the south of the site an undercroft arrangement opening out to a parking court is proposed. Access from the parking court to each residential curtilage is also proposed here.

At the time of writing the report the response of the Director of Environment and Transport (Highways) had not been received and will be reported as a later item.

### Siting and Design

The layout of the site is such that it reflects the layout of the adjacent development on The Pinfold. The proposed dwellings are sited in line with the existing dwellings either side of the hammerhead junction and therefore will create a natural extension to The Pinfold. The dwellings to the north of the site will be at right angles to those on The Pinfold but this arrangement does not result in any visual detriment and will maintain the character of The Pinfold.

The proposed dwellings respect the two storey scale and appearance of the adjacent dwellings and are therefore considered acceptable. The dwellings are generally attractive with careful fenestration detail and the provision of chimney stacks that respect the local vernacular.

All dwellings have rear gardens and whilst certain plots are somewhat smaller than would normally be required, there is no substantial reason to suggest that the outside space provisions are inadequate.

The proposed open space is to the south of the site and located within the flood zone. Knowing that this area is not developable the applicant is offering this land as an open space for wider public use. Whilst the principle of the offer is sound there are issues of access and on going maintenance and associated health and safety issues due to flood risk. The matter is currently being discussed with the Head of Corporate and Scrutiny Services (Green Spaces) and the outcomes of the decision and whether the site will be taken as open space will be reported as a later item.

All dwellings have private gardens and therefore there would be adequate provision for waste recycling storage and bins within the development.

### Impact on Neighbours

As discussed above, the proposed dwellings are sited alongside the existing dwellings of The Pinfold and separation distances are generally in accordance with the standards set down in the adopted SPG. As such the general arrangement will have very little impact upon the amenities of others.

However, the proposed dwellings do have a series of secondary windows to the side elevations at ground floor level which in certain locations are less than desirable. The general approach to the insertion windows in the side elevations is being discussed with the applicant's agent and will be reported as a late item.

The proposed parking court to the southern edge of the application site is adjacent a number of existing dwellings curtilages, however the scheme does propose a pedestrian footpath between the car park and the existing boundary fence which should help to mitigate vehicles being parked right against the existing fences. A scheme for boundary treatments will also be required to ensure an appropriate quality fence to this boundary and all boundaries of the site is maintained following the development.

### Affordable Housing and Developer Contributions

The general approach to developer contributions must be considered alongside the guidance contained within Circular 05/05 and more recently in the Community Infrastructure Levy Regulations 2010 (CIL).

CIL 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.

In line with Policy 15 of the Adopted Core Strategy, the proposal triggers the requirements for the provision of two affordable homes. The applicant is willing to provide two homes and these will be secured and delivered with local connections clauses through an accompanying legal agreement.

The site lies outside of the 400 metre threshold for a contribution under the requirements of Policy REC3 of the Adopted Local Plan, however as highlighted in the earlier sections of this report, the scheme does propose the inclusion of an area of open space on site. Should this be adopted by the Local Authority or Parish Council a contribution towards maintenance would be required.

### Ecology

The accompanying ecology report does not identify the presence of any ecological interest or any protected species on site and as such there is no formal consideration required.

The scheme does propose to remove a group of conifers to the sites northwest boundary. These trees are not particularly attractive and do not define the character of the area and as such there is no objection to their removal. A full landscaping scheme will be subject to a planning condition and will secure the replacement planting of trees within the site.

### Other Matters

The site is located within Ratby which has a good degree of services to support a growing population. Whilst objection has been received stating that this is not the case and local infrastructure is inadequate, this is not considered to be so deficient that it could be demonstrated that the proposal would be unsustainable in planning terms.

All dwellings have private gardens and therefore there would be adequate provision for cycle storage within the development.

The application does not propose that the dwellings will be built to any official sustainable standard, inline with Policy 24 of the Adopted Core Strategy, the dwellings will need to be

constructed in accordance with the Building a Greener Future standard. This standard is inline with Building Regulations and therefore the development will automatically be constructed to this continually evolving standard.

### Conclusion

The general presumption within the planning system is to develop land as sustainably as possible to prevent the unnecessary loss of the countryside; however a realistic approach to the future pattern of development within the Borough needs to be considered. In line with the Core Strategy there is a commitment to deliver housing.

The development of edge of existing urban centres is seen as being the most favourable approach to meet the development needs of any settlement. Inevitably it does result in the loss of greenfield sites, however in the commitment to adopt the housing figures in the Core Strategy there is an overarching assumption that greenfield sites will be lost in delivering this commitment.

Turning to the current proposal, the site is located on the edge of Ratby and is therefore considered to be sustainably positioned close to the services that Ratby offers to a growing residential population. The 5 year land supply issue does confirm that the Borough Council is unable to provide an appropriate supply and the adopted housing figures within the Core Strategy supports the development of this site over an above the land use designation. Accordingly, there are a number of reasons that indicate the development should be considered favourably.

**RECOMMENDATION:- That subject to no adverse comments being received from the Director of Environment and Transport (Highways) being received, the Deputy Chief Executive (Community Direction) shall be granted delegated powers to grant 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 of two affordable homes. Failure to do so by 10 November 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 with the development plan and would not be to the detriment of visual or residential amenity, highway safety or any protected species and would not result in any unacceptable flood risk.

Hinckley & Bosworth Borough Council Local Plan (2001):- BE1, NE2, NE5, T5, IMP1

Hinckley & Bosworth Borough Core Strategy (2009):- Policies 8, 15, 16, 19, 24

- 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: 2986.PL: 001 rev a, 003, 004, 005, 006, 007.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

- 4 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
  - i) proposed finished levels or contours
  - ii) means of enclosure and boundary treatments
  - iii) hard surfacing materials to all private drives, driveways and parking spaces
  - iv) retained historic landscape features and proposals for restoration, where relevant and in accordance with the submitted tree survey
  - v) planting plans
  - vi) written specifications
  - vii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
  - viii) implementation programme.
- 5 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 6 Before the first occupation of any dwelling hereby approved, the access roadway, driveways and vehicle parking spaces shall be laid out and in accordance with the approved plan 2986.PC.09.0004 and be maintained 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&5 To ensure the development assimilates with the surrounding landscape. In accordance with the requirements of Policies NE5 and BE1 of the Adopted Hinckley and Bosworth Local Plan.
- 6 To ensure that adequate access, turning and off-street parking facilities are available to accord with policy T5 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 6 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:-** James Hicks Ext 5762

**Item:** 05

**Reference:** 10/00588/EXT

**Applicant:** SS And RK Sadhra

**Location:** 1 Trinity Vicarage Road Hinckley Leicestershire LE10 0BU

**Proposal:** EXTENSION OF TIME FOR PLANNING PERMISSION 07/00055/FUL (DEMOLITION OF EXISTING FACTORY AND REDEVELOPMENT TO FORM 13 NO. FLATS)

**Target Date:** 12 November 2010

**Introduction:-**

This application seeks a new planning permission to replace an extant outline planning permission (reference 07/00055/FUL) for the demolition of an existing factory and redevelopment to form 13 no. flats. The previous application was a full submission.

The site is located on the south side of Trinity Vicarage Road close to the junction with Trinity Lane. The site measures approximately 800 square metres and is accessed from Trinity Vicarage Road. The site is bounded to the east by Hammond's retail store, to the north by residential dwellings and to the south and west by Trinity Court.

The site itself is roughly rectangular in shape and comprises a large two storey industrial building to the south of the site and two single storey industrial buildings to the centre and north of the site.

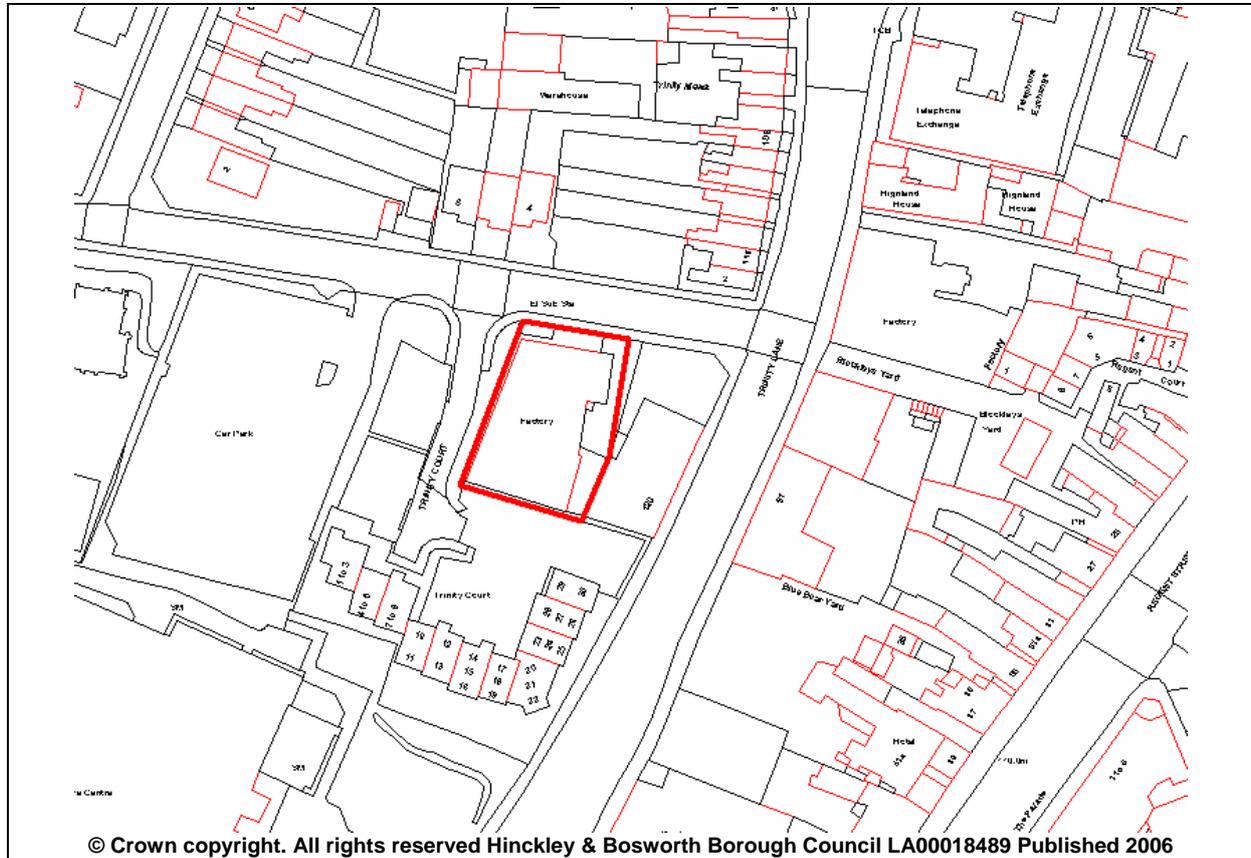
The original application proposes to remove all of the existing buildings and erect thirteen flats in 2 two storey blocks with rooms in the roof. Block A will front onto the access to Trinity Court and will comprise 4 one bedroom and 1 two bedroom flats. Block B will front onto Trinity Vicarage Road and will comprise 6 one bedroom and 2 two bedroom flats. The blocks both have rendered panels, 'Juliet' balconies, brickwork string detailing and feature projecting gables to the front and rear. A small communal garden is shown to the southeast corner of the site, with further landscaped areas to the Trinity Vicarage Road elevation. The scheme proposes access from the existing Trinity Court access, leading to thirteen car parking spaces, including one disabled space.

Information submitted in support of the original application included a design and access statement, draft heads of terms and 3-dimensional illustrative views. The supporting information states that a mixed development of 1 and 2 bedroom apartments is considered to be appropriate reflecting the existing scheme to the side and rear of the site in Trinity Court.

**History:-**

07/00055/FUL	Demolition of existing factory and redevelopment to form 13.no flats	Approved	13.08.07
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06/00409/FUL	Demolition of existing factory and erection of 12 residential units with associated parking and access	Withdrawn	31.07.06
05/00599/FUL	Redevelopment to from 12 flats	Withdrawn	18.01.06
99/00137/COU	Change of use to martial arts club and ancillary office	Approved	28.04.99



### Consultations:-

No objection has been received from:-

Director of Environment and Transport (Highways)  
Environment Agency.

No objection subject to conditions have been received from:-

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

The Primary Care Trust requests a developer contribution of £2,985 towards healthcare provisions.

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

- a) Director of Environment and Transport (Ecology) – no contribution
- b) Director of Children and young Peoples Services (Education) – no contribution

- c) Director of Environment and Transport (Civic Amenity) – contribution of £587
- d) Director of Adults and Communities (Libraries) – contribution of £490.

Site notice and Press notice were displayed and neighbours notified.

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

The Leicestershire Constabulary Crime Reduction Officer  
Cyclists Touring Club.

### **Policy:-**

#### National Planning Guidance

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

Planning Policy Statement 3: Housing (PPS3) sets out the national planning policy framework for delivering the Government's housing objectives. It seeks to achieve a wide choice of high quality homes to address the needs of the community and provide housing developments in suitable locations which offer a good range of community facilities and with good access to key services and infrastructure. This PPS promotes designs and layouts which make efficient and effective use of land, particularly the re-use of previously developed land.

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.

#### Regional Policy

The Secretary of State has indicated his intention to abolish Regional Spatial Strategies (RSS) and laid down an order on 6 July to revoke them with immediate effect, accordingly very minimal weight should be attached to the policies of the East Midlands Regional Plan.

#### Local Planning Policy

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

Policy 1: Development in Hinckley seeks to diversify the existing housing stock in the town centre to cater for a range of house types and sizes, to ensure there is a range of employment opportunities within Hinckley and to allocate land for new office development within or adjoining the Hinckley Town Centre Area Action Plan boundary.

Policy 16: Housing Density, Mix and Design seeks to ensure that all new residential developments provide a mix of types and tenures appropriate to the applicable household type projections. A minimum of 40 dwellings per hectare is required in Hinckley.

Policy 24: Sustainable Design and Technology requires all new residential development in Hinckley to be built to Code Level 3 of the Code for Sustainable Homes.

### Hinckley and Bosworth Local Plan (2001)

The site lies within the settlement boundary for Hinckley and is shown on the Proposals Map as an employment site, however this is shown in error as the site is not mentioned in the adopted copy of the Local Plan. Accordingly the site is not a protected employment site.

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

Policy BE1 of the adopted Local Plan states that the Borough Council will seek to ensure a high standard of design in order to safeguard and enhance the existing environment and that planning permission will be granted where the development complements or enhances the character of the surrounding area with regard to design, materials and architectural features, and is not prejudicial to the comprehensive development of a larger area.

Policy REC3 of the adopted Local Plan requires an appropriate level of open space to be provided within development sites or, alternatively, a financial contribution to be negotiated towards the provision of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area. Supplementary Planning Guidance gives further advice regarding the provision of Play and Open Space.

Policy T5 of the adopted Local Plan refers to the application of highway design and vehicle parking standards.

Policy IMP1 of the adopted Local Plan seeks to ensure contributions towards infrastructure and facilities commensurate with the scale and nature of the development proposed.

### Supplementary Planning Guidance/Documents

The Borough Council's Supplementary Planning Guidance on New Residential Development provides a series of design standards that new residential developments should aspire to achieve to be acceptable.

The Borough Council's Adopted Supplementary Planning Document: Town Centre Infrastructure seeks to ensure that all new developments contribute to the development of the town centre infrastructure.

### **Appraisal:-**

The main considerations with regards to this application is whether there have been any material changes in planning policy since the previous application that would affect the determination of the application and if the originally imposed conditions are still required.

### Density

Following the recent changes to PPS3, there is no longer any national and regional density policy; however Policy 16 of the Adopted Core Strategy requires developments in Hinckley to achieve at least 40 dwellings per hectare.

The application site measures approximately 0.08 hectares, to develop this at the lower end of the recommended density would result in a scheme for 2-3 dwellings and at the higher end would result in a scheme for 4 dwellings. The proposed development of 13 dwellings would result in a density of 163 dwellings per hectare. This is considerably higher than the recommended density. However, the site is located near to the town centre, within close proximity to local amenities and to make efficient use of land in such locations higher densities should be encouraged. As such, the proposed density is considered acceptable.

## Financial Contributions

Since the determination of the previous application the Community Infrastructure Levy Regulations (CIL) 2010 have been brought out this requires the Borough Council to ensure that requested contributions are necessary, directly related and fairly and reasonably related in scale and kind the development proposed.

The site is approximately 280 metres from Hollycroft Park which acts as a neighbourhood park where there is a recognised need to improve infrastructure including improvements to the bandstand, water feature, pathways, horticultural features, tennis courts, bowling green, and the pitch and putt course. The park currently has a quality score of 60.3% and as such there is a recognised need for improvement. In line with the Adopted Supplementary Planning Document: Play and Open Space a contribution of £13,758.80 is required to partially fund these improvements. This contribution is considered to be CIL compliant.

The Leicestershire County Council Civic Amenity and Libraries contributions; the contribution required by the Town Centre Infrastructure SPD and the Primary Care Trust contribution have been carefully considered but are not considered to satisfy the statutory requirements of CIL and as such cannot be reasonably requested.

## Code for Sustainable Homes

In accordance with the requirements of Policy 24 of the Adopted Core Strategy all new residential development in Hinckley is required to be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes. Even though this was not a requirement of the earlier application, the adoption of the Core Strategy now makes this a formal development plan requirement to which the proposal must satisfy. At the current time this is being delivered and secured by planning condition.

## Conditions

The original conditions and the reasoning for their imposition have been considered and it is concluded that they are all necessary. Due to the change in policy and the requirement for residential units to be constructed to a minimum of Code Level 3 it is considered that a further condition should be imposed to ensure compliance.

## Conclusion

The previous application was granted in 2007 in accordance with the Hinckley and Bosworth Local Plan at the time. Since then some policies have been replaced by the Core Strategy adopted in December 2009. The only policy change that effects the determination of this application is the requirement for the development to be built to a minimum of Code Level 3 of the Code for Sustainable Homes, as this can be required by the imposition of a condition it is considered that the application should be recommended for approval.

**RECOMMENDATION:- That the Deputy Chief Executive (Community Direction) shall be granted delegated powers to grant 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 of the provision and maintenance of public play and open space facilities. Failure to do so by 12 November 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 accordance with the development plan and would not be to the detriment of visual or residential amenity or highway safety.

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

Hinckley & Bosworth Borough Council Core Strategy (2009):- Policies 1, 16 and 24

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed apartment blocks shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 3 Notwithstanding the details submitted, no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:
  - i) means of enclosure (including all boundary treatment and retaining walls)
  - ii) car parking layouts
  - iii) other vehicle and pedestrian access and circulation areas.
  - iv) hard surfacing materials
  - v) retained historic landscape features and proposals for restoration, where relevant
  - vi) planting plans
  - vii) written specifications
  - viii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
  - ix) implementation programme.
- 4 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 5 Prior to the occupation of the first residential apartment, full details of security lighting and other forms of external illumination shall be submitted to and approved in writing by the Local Planning Authority. The scheme of illumination shall be implemented before the first occupation of any apartment hereby approved in accordance with the approved details and no other security lighting shall be permitted without the written consent of the Local Planning Authority.
- 6 Prior to the commencement of development details of the bin and cycle storage area shall be submitted to and approved in writing by the Local Planning Authority. The bin and cycle storage area shall be implemented in accordance with the approved scheme before any of the residential units are first occupied and shall thereafter permanently remain available for use.
- 7 Notwithstanding the submitted details the windows to be inserted in 2nd floor of the eastern elevation of block A shall be obscure glazed and retained as such at all times thereafter.
- 8 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to

and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.

- 9 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 10 Notwithstanding the submitted details, before first use of the development hereby permitted, where within the control of the applicant a visibility splay of 4.5 metres by 33 metres shall be provided in an easterly direction at the junction of the access with Trinity Vicarage Road. This shall be in accordance with the standards contained in Highways Transportation and Development and shall be so maintained in perpetuity. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splay.
- 11 The sites redundant vehicular access shall be closed permanently within one week of the new approved access being brought into use and the redundant vehicular crossings reinstated to the satisfaction of the Local Planning Authority in consultation with the Highway Authority.
- 12 The car parking and any turning facilities shown on approved plan J26/(PL)01 shall be provided before the flats hereby approved are occupied and shall thereafter permanently remain available for such use.
- 13 Before first use of the development hereby permitted the access drive and any turning space shall be surfaced with tarmac, concrete or similar hard bound material (not loose aggregate) for a distance of at least 7 metres behind the Highway boundary and shall be so maintained at all times.
- 14 Before first use of the development hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above ground level, in accordance with the current standards of the Highway Authority and shall be so maintained in perpetuity.
- 15 The access shown on approved plan J26/(PL)01 shall have a minimum width of 4.25 metres for at least the first 5 metres behind the highway boundary, have 6 metre kerbed radii at its junction with the adopted road carriageway on the northern side and provide a shared pedestrian and vehicular access. The access drive once provided shall be so maintained at all times.
- 16 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: J26(PL): 01, 02, 03, 05 and J26(SK)08-A and J26(SK)09-A.
- 17 Prior to the commencement of development, a Code for Sustainable Homes Design Stage Assessment demonstrating that the apartments hereby approved can be constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority. In addition, prior to the first occupation of any apartment hereby approved, a final certificate demonstrating that the apartments have been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2-4 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 5 To provide sufficient security measures as well as preventing unnecessary light pollution to accord with policies BE1 and BE26 of the adopted Hinckley and Bosworth Local Plan.
- 6 To safeguard amenities of neighbouring properties to accord with policy BE1 and RES5 of the adopted Hinckley & Bosworth Local Plan.
- 7 To ensure the proposed development is not prejudicial to the development of a larger area of land of which the development forms part to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 8&9 To ensure that the site is not contaminated, to safeguard the health of future occupiers to prevent pollution of the water environment to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 10 To afford adequate visibility at the junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety, to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 11 To reduce the number of vehicular accesses to the site and consequently to reduce the number of potential conflict points, to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 12 To ensure that adequate off-street parking facilities are available to accord with policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 13 To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.), to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 14 In the interests of pedestrian safety, to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 15 To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway, to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 16 For the avoidance of doubt and in the interests of proper planning.
- 17 In the interests of sustainable development to accord with policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.

**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 6 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:-** James Hicks Ext 5762

**Item:** 06

**Reference:** 10/00640/OUT

**Applicant:** Johal And Kler Partnership

**Location:** Dunlop Limited Station Road Bagworth Coalville Leicestershire

**Proposal:** MIXED USE DEVELOPMENT COMPRISING UP TO 68 DWELLINGS AND EMPLOYMENT (OUTLINE - ACCESS ONLY)

**Target Date:** 2 December 2010

**Introduction:-**

This is an outline application for a mixed use development of up to 68 dwellings and employment units at land to the east of Station Road, Bagworth. Access is the only matter for determination at this stage with all other matters reserved.

The application site extends to just over two hectares and currently consists of derelict buildings previously used by Dunlop to the north and a further industrial area to the south currently occupied by RSL who manufacture recycling plant equipment. The site forms an irregular site as a further building occupied by Presscut Components forms part of this industrial area but does not form part of the application site.

The former Dunlop site consists of a range of industrial buildings of various ages, styles and sizes and areas of hardstanding. The only planting within the site consists of a tree lined hedge to Station Road. The site is bounded by residential properties to the south and west facing Station Road. To the north and east are fields, outside of the settlement boundary, with some tree planting beyond the eastern boundary.

Two accesses are proposed to the site, firstly, the existing access to the south of the site which serves RSL is proposed to be retained to serve the industrial units, while to the north of the site an existing access is proposed to be altered to provide access to the residential element. Both accesses are from Station Road.

An indicative layout has been provided which shows 68 dwellings as a mix of detached, semi-detached and terraced properties of 2, 3 and 4 bedrooms. 40% of the development (27 dwellings) are indicated as affordable housing. The southern part of the site is shown to accommodate a single employment building in the south-eastern corner with an extensive parking and manoeuvring area.

The application is supported by a Design and Access Statement, Planning Statement, Transport Statement, Site Investigation Report, Ecological Appraisal, Flood Risk Assessment, Noise Impact Assessment, an Initial Site Appraisal of Archaeological Risk and a Heads of Terms Document.

The Design and Access Statement states that the proposal seeks to address through form, mass and elevational design a residential and industrial development which will positively interact with the local context, which uses quality materials that are fitting to the local vernacular, utilise an architectural style that is sensitive to the residential context, and provide accessibility to the entirety of the development for all users.

The Planning Statement sets out the characteristics of the site, the details of the proposed redevelopment, the planning history and planning policy. It sets out that the timing of the application is acceptable as the Core Strategy is now adopted and the housing requirement for Bagworth is within the development plan. It suggests that a 5-year supply cannot be demonstrated and that the proposals are in accordance with the development plan except for one out-dated policy. An assessment of alternative sites has been undertaken which shows the application site as the most appropriate.

The Transport Statement provides a comparison of the trip rates generated by the proposed uses and the existing employment uses and concludes that the proposed development will have a negligible traffic impact on the local highway network.

The Site Investigation Report provides a risk assessment to human health and controlled waters from the clearance and redevelopment of the site. It sets out conclusions and recommendations based on this risk assessment and a geotechnical assessment for the site. A further Preliminary Risk Assessment has also been submitted.

The Ecological Appraisal concludes that habitats on site were of very limited value to wildlife and that surveys for bats found no evidence that the site currently supports a population of bats. No evidence of or potential for other protected species was observed.

The Flood Risk Assessment sets out that the site is not at quantifiable risk of flooding from existing sources and should be classified as flood zone 1 as defined in PPS25. The site is unsuitable for infiltration style drainage systems, flow attenuation is proposed with surface water draining to an existing minor watercourse to the north-east of the site.

The Noise Impact Assessment sets out a series of recommendations for the layout and construction of the proposals and states that the resultant noise levels within the property and garden areas would meet appropriate and reasonable guidance and noise criteria and would therefore provide an adequate level of protection against noise for potential occupants of the dwellings.

The Initial Site Appraisal of Archaeological Risk indicates that there is a low risk of archaeological remains existing within the site and a medium likelihood of significant previous disturbance.

The Heads of Terms propose a full complement of Section 106 contributions including affordable housing at 40%.

**History:-**

08/00215/FUL	Demolition of existing factory and erection of 68 dwellings with associated access and parking	Refused	6.06.08
05/01047/OUT	Redevelopment of site for residential use	Refused	05.12.05

The application site has been subject to two previous similar proposals as set out above. Firstly, application 05/01047/OUT proposed residential development of the southern part of the site. This was refused on the loss of employment land, impact of noise on future occupiers, land contamination and lack of contributions. The decision was upheld at appeal where the Inspector considered employment land supply and concluded that the buildings contribute to meeting an identified demand. It should be noted that this application concerned only the southern part of the site and that these buildings have since been occupied by RSL.

A subsequent application, 08/00215/FUL, concerned the Dunlop part of the application site and proposed its demolition and the erection of 68 dwellings. This application was refused on the loss of employment land and the subsequent impact on the sustainability of Bagworth, that this is not a sustainable location for residential development, design and layout and pollution from adjacent commercial operations. The refusal was not challenged at appeal.



### **Consultations:-**

No objection subject to conditions have been received from:-

Severn Trent Water Ltd  
The Head of Community Services (Land Drainage).

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

- a) Director of Community Services (Ecology) – Make no request.
- b) Director of Children and Young People’s Service (Education) – Make no request as there is sufficient surplus capacity at all levels of education provision.
- c) Head of Commercial and Support Services (Libraries)– Request £54.35 per 2 bedroom property and £63.41 per 3/4/5 bedroom dwelling as the nearest Library in Coalville is currently below the current size standards. The additional users would create a need for 1600 additional items of stock to mitigate the impacts of the development on the service.

- d) Director of Highways, Transportation and Waste Management (Civic Amenity) – request £34.48 per dwelling to make improvements and increase capacity of the Coalville civic amenity site.

The Leicestershire Constabulary Crime Reduction Officer raised concerns regarding the security of the indicative layout. A contribution request of £606 per dwelling is requested as buildings are at capacity and cannot accommodate further staff therefore capital facilities are required which cannot be funded through council tax. This includes new or supplementary buildings to house resources, extending communication infrastructures, providing additional vehicles and increased efficiencies associated with patrol, detection and prevention of crime.

The Environment Agency object to the proposals and recommend refusal as the submitted Flood Risk Assessment does not provide a suitable basis for assessment to be made of flood risks arising from the proposed development. The Flood Risk Assessment fails to provide a SUDS scheme within the application boundary of the development.

The National Forest raises no comments on the broad planning merits of this proposal but requests that the development is subject to the National Forest planting guidelines. This would require 20% of the site area being set aside for tree planting and green space provision.

Bagworth and Thornton Parish Council comment that the Dunlop site has been virtually derelict for several years and a sympathetic residential development in keeping with the ambiance of a village would be preferable to an old industrial site falling into disrepair. They highlight the opportunities for industrial development and expansion in the vicinity of the village and that heavy goods vehicles are banned from travelling through Bagworth because the roads are unsuitable for the weights involved. The comments also state that Section 106 contributions should be designated for developing Bagworth Community Centre.

The Head of Business Development and Street Scene Services does not object to the proposal but requests further consultation at the reserved matters stage.

The Head of Community Services (Pollution) raises no objection subject to conditions regarding noise and land contamination however they do request further information and clarification on points raised in the reports.

Site notice and Press notice were displayed and neighbours notified.

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

- a) Lack of parking for houses
- b) Parking on Station Road causing obstruction for pedestrians and traffic
- c) Loss of hedgerow.

One letter of support has been received stating that the site attracts vandals and a police presence has been required to maintain order. That the site is an eyesore and the development will increase property values for the immediate vicinity.

One further letter has been received questioning the retention of bollards on Station Road.

Presscut Components, the neighbouring industrial use, objects on the grounds that houses are proposed in close proximity to their business. They state that they would welcome industrial units that they can rent for possible expansion. They state that they have tried to rent space on the site but have been unable to get a response from the agent.

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

Director of Community Services (Archaeology)

Director of Highways, Transportation and Waste Management (Highways)  
The Primary Care Trust  
Cyclists Touring Club.

The consultation period remains open at the time of writing and closes on the 3 November 2010. Any further consultation response received before the closing date will be reported and appraised as a late item.

## **Policy:-**

### National Policy

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

Planning Policy Statement 3 - Housing sets out the national planning policy framework for delivering the Government's housing objectives. This document states at paragraph 12 that good design is fundamental to the development of high quality new housing.

Paragraph 40, under the title of effective use of land, states that "a key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has previously been developed". Paragraph 41 sets out the national target to provide 60% of all housing on previously developed land. The paragraph continues to state that there is no presumption that land that is previously developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed.

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

Planning Policy Statement 9 - Biodiversity and Geological Conservation sets out planning policies on protection of biodiversity and geological conservation through the planning system.

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

Planning Policy Statement 23 – Planning and Pollution Control sets out national planning guidance on pollution of land, air and water.

Planning Policy Guidance Note 24 – Planning and Noise guides Local Authorities on the use of planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

Planning Policy Statement 25 – Development and Flood Risk aims are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk.

## Local Policy

### Hinckley & Bosworth Core Strategy DPD (2009)

Policy 7 – Key Rural Centres states that to support the Key Rural Centres and ensure they can provide key services to their rural hinterland, the council will: support housing development within settlement boundaries that provides a mix of housing types and tenures, and ensure there is a range of employment opportunities. The policy states that to support this, the enhancement of allocated employment sites will be supported.

Policy 10 – Key Rural Centres within the National Forest states that land will be allocated for the development of a minimum of 60 new homes in Bagworth. Additional employment provision to meet local needs in line with Policy 7 will be supported and the provision of small industrial work units (including social enterprises and craft workshops) in Bagworth for rent or to buy as supported by the Bagworth Parish Plan.

Policy 15 seeks the provision of Affordable Housing on residential proposals within rural areas at the rate of 40% with a tenure split of 75% social rented and 25% intermediate housing.

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

Paragraph 4.2 sets out a target of 40% of development on previously developed land.

### The Local Plan (adopted February 2001)

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

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

Policy EMP1b refers to existing employment sites and states that the council will support proposals for other employment activities, or alternative uses of the sites on their merits in the context of the appropriate design policies of the plan. These sites are considered to be acceptable employment locations.

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

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

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

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

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

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

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

#### Supplementary Planning Guidance/Documents

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

#### Other Material Considerations

On the 27 May 2010 the Secretary of State for Communities and Local Government issued a letter to all Local Authorities indicating the Coalition Government's commitment to abolish the Regional Spatial Strategy and return decision making powers on housing and planning to local councils. The letter states that "decisions on housing supply (including the provision of travellers' sites) will rest with Local Planning Authorities without the framework of regional numbers and plans". The Secretary of State continues to confirm that the letter is to be considered as a material planning consideration in any decisions until a formal announcement is made on this matter. The Development Plan therefore now consists of the Core Strategy and saved policies from the Local Plan.

The Employment Land and Premises Study (May 2010) provides an update to the assessment of existing employment sites within Local Plan Policy EMP1. The application site is described as a medium sized industrial complex with limited other employment space in the settlement. The document states that the complex is marketed by King Sturge and Innes England and has the potential for a small industrial estate subdividing larger buildings which may not find single occupiers. It states that employment uses should be maintained, but the site is slightly too large for the area unless major occupiers come forward. The report recommends that the site should be retained as category B and 75% of the site retained for employment with 25% other uses allowed.

#### **Appraisal:-**

The main considerations with regards to this application are: the principle of development; loss of employment land; 5-year housing supply; access and impact on the highway network; developer contributions and affordable housing and other matters.

#### Principle of Development

The application site is within the settlement boundary of Bagworth where a presumption in favour of development exists. However the site is designated under Local Plan Policy EMP1 as a category B employment site where proposals for other employment activities, or alternative uses of the sites are considered on their merits in the context of the appropriate design policies of the plan. The policy states that these sites are considered to be acceptable employment locations.

As set out above, the 2010 Employment Land and Premises Study, considers that the site should be retained for employment purposes but that the site is slightly too large for the area unless a major occupier comes forward. It recommends that 25% of the site should be made available for other uses with 75% retained as employment.

The application is in outline form for a mix of housing and employment uses which would be acceptable in principle dependent on the proportion of these two uses.

### Loss of Employment Land

While the application site does not extend to the whole employment site, it is considered that the split of housing and employment on the application site should reflect the 75% / 25% distribution required in the Employment Land and Premises Study. This would allow the remainder of the site to come forward at a later date and redevelop in a similar manner.

The application proposes that the existing vacant former Dunlop buildings are redeveloped for housing with the remainder of the site currently occupied by RSL be redeveloped to form a single building that could be split into smaller units depending on demand. The indicative layout shows a scheme with 75% of the site proposed as housing and 25% as employment.

The need to protect employment land in Bagworth is set out in Core Strategy Policy 7 which seeks to ensure there is a range of employment opportunities and Policy 10 which states that additional employment provision will be supported and the provision of small industrial work units. The Employment Land and Premises Study at Table 66 provides an assessment of employment land in the Key Rural Centres. For Bagworth this sets out that there are two small employment areas in the town which can feasibly be retained. It states that the former Dunlop complex is vacant and that if it were subdivided for small SME units it is likely there would be demand.

Bagworth has limited employment opportunities beyond the application site and the recent extensive housing development has created additional demand. The spatial strategy for key rural centres sets out that they should provide a localised provision of facilities to those living in the centre and the villages and hamlets surrounding the centre to address the need to travel long distances to urban areas for services. It is therefore considered necessary to retain the employment provision within Bagworth for the settlement to provide the facilities expected of a Key Rural Centre and ensure the settlement remains sustainable.

The application has been supported by a Planning Statement which makes reference to the current state of the buildings which have been subject to vandalism and theft and the fact that they are no longer secure. It cites the range of other employment sites within the vicinity at Interlink Park and Merrylees which could accommodate any need that does exist locally. However, while to-let boards are still on the site, no information has been provided relating to the marketing of the land for employment use nor the responses that this has generated. There is anecdotal evidence from a neighbouring business that the site has not been marketed actively.

Amended plans have been submitted which show that the proposed new employment building could accommodate the existing employment use on site. However, there is not more formal commitment either from the applicant or the current occupier that they will be accommodated in the scheme. This raises further concern that the scheme may lead to the loss of the existing employment use on the site.

While the Employment Land and Premises study would support the partial redevelopment of the site it is considered that the proposed loss of three quarters of the site to housing is beyond that envisaged by the Study. No additional information to support the applicant's case by way of a clear marketing history of the site demonstrating the lack of employment need has been submitted and the potential loss of the current occupiers has not been adequately addressed. It is considered that the acceptance of the proposals would lead to a lack of employment opportunities in the village contrary to Core Strategy Policies 1 and 10.

Meetings have taken place with the applicant to discuss amending the scheme to a more acceptable split but no movement from the position contained within the application has been

offered by the applicant. As the application is in outline form it is possible to control through condition the split of the two uses, however as the description of development proposes up to 68 dwellings control by condition to achieve a 25% housing split would result in an unacceptably dense housing development.

#### Five year housing land supply

Members will be aware of the current shortfall in housing land supply within the Borough despite recent approvals for residential development. Although recently updated, Planning Policy Statement 3 continues to require Local Authorities to identify and maintain a rolling 5-year supply of deliverable land for housing. In particular at paragraph 71 the PPS states 'where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites ... they should consider favourably planning applications for housing, having regard to the policies in this PPS including the considerations in Paragraph 69'.

The most recent Annual Monitoring Report shows a 303 dwelling shortfall in supply or a provision of four years and four months within the Borough. The lack of five-year supply therefore needs to be given considerable weight.

As set out above, paragraph 69 states that Local Authorities should have regard to; achieving high quality housing; ensuring developments have a good mix of housing; the suitability of the site for housing, including its environmental sustainability; using land effectively and efficiently and ensuring the proposed development is in line with planning for housing objectives reflecting the need and demand for housing in, and the spatial vision for the area, and does not undermine wider policy objectives.

The quality and mix of housing would be addressed through the details submitted at reserved matters stage. The site is suitable for development in principle as it falls within the settlement boundary and is accessible. However, the protected employment status of the land would suggest that the land is not suitable for housing redevelopment in its entirety. The application does reflect the need and demand for housing in the area in broad terms as up to 68 units are proposed which would address the requirement within the Core Strategy for 60 dwellings within Bagworth. However, as set out above the spatial vision for the area, describes Key Rural Centres as being able to provide a level of local services and facilities to meet the demand of the settlement and the surrounding area. It is considered that the loss of the majority of this site to housing would not reflect that vision and therefore the proposals are contrary to Paragraph 69 of PPS3 and therefore even though a five-year housing supply cannot be demonstrated the application should not be 'considered favourably' under paragraph 71 of PPS3.

#### Access and impact on the highway network

At the time of writing this report comments from Director of Highways, Transportation and Waste Management (Highways) are still awaited, these will be presented as a late item. The indicative scheme proposes separate accesses for the residential and employment activities which is supported.

Objections have been raised regarding the potential for increased parking on Station Road however it is considered that this could be addressed at reserved matters stage by a design which provides access to the front of those properties facing Station Road from the internal road network.

The 2008 application was refused on the grounds that this is not a sustainable location for housing development as residents would have to rely on the private car. It is considered that as the Core Strategy has now been adopted which allocated 60 residential units to the settlement the principle of residential development in Bagworth is acceptable from a sustainable travel point of view until this allocation is met.

## Developer Contributions and Affordable Housing

The application proposes 40% affordable housing which is in accordance with Core Strategy policy. The indicative layout shows the distribution of 27 affordable units which would address part of the current waiting list for Bagworth which stands at 32.

Contribution requests have been received, as set out above, from the Police of £606 per dwelling and from Leicestershire County Council towards civic amenity and libraries at a rate dependent on the final dwelling mix. No contribution is required towards education. The submitted Planning Statement sets out a commitment to make these contributions however inline with previous committee reports and recent appeal decisions the acceptability of these requests needs to be considered in light of the Community Infrastructure Levy Regulations (CIL) 2010.

CIL 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.

It is considered that the contributions requested by the Police, and Leicestershire County Council towards Civic Amenity and Libraries fail to demonstrate the impact of the development on their services and how this justifies the need for the contribution and the value of it. Therefore these requests are not currently supported and will not be sought.

The site is located within 400 m of open space adjacent to the community centre on Station Road. The residential element of the development triggers a requirement for a contribution towards the provision and maintenance of play and open space in accordance with Policies REC2 and 3 supported by the Play and Open Space SPD.

Within the Green Space Strategy 2005-2010, Bagworth was found to have a deficiency of open space, for its population, of -0.03 when compared with the National Playing Fields Standard. The quality of the space was considered within the Quality and Accessibility Audit of 2005 which awarded the Community Centre Recreational Ground a score of 26.7% suggesting that additional works are required to improve the quality of the space. The document makes recommendations to what works are required to improve the quality and provides a cost. With regard to the provision for children and young people, these include the provision of new equipment and upgrading existing equipment, safety surfacing, dog-proof fencing and a recommendation that the needs of young people between the ages of 12 and 18 are considered. The estimated cost of these works is given as £100,000. To maintain and improve the quality of existing amenity green space is given as £45,000.

As no open space is proposed on site it is considered that off-site contributions to the provision of maintenance of open space are justified and that in this instance a requirement of £1,837.60 per dwelling consisting of £1,140.60 provision and £697 maintenance can be requested.

## Other matters

While no objection has been raised by the Head of Community Services (Pollution) with regards to contaminated land or noise impact further information has been requested. This has been provided by the applicant and is being assessed by Environmental Health. Their updated comments will be reported as a late item.

The objection raised by the Environment Agency concerns the position of an attenuation basin which is outside of the development site. They object as if this basin is not provided acceptable discharge rates will not be achieved. Amended plans have been submitted which

demonstrate that this falls within blue land and is therefore under the control of the applicant and can be delivered. While updated comments are awaited from the Environment Agency, it is considered that the amended plan will address their concerns.

Severn Trent Water raise no objection to the proposal but have asked for a condition in respect of drainage details to be submitted. Historically the development control process has sought to control the design of drainage systems, however in more recent years further control is now delivered through the Building Regulations and by Severn Trent Water (as the service provider) and the drainage scheme that has been approved by the planning authority is usually subject to change. In line with recent appeal decisions and Planning Inspector opinion, drainage details should no longer be subject to a planning condition unless there is uncertainty over network capacity or connection availability. Accordingly, in this case no drainage conditions are considered necessary.

The request for 20% of the site to be made available for planting is being discussed between the developer and the National Forest. It is understood that land adjacent to the site has been suggested as suitable for this planting. The outcome of these discussions will be reported as a late item.

The design and layout of the development and any overlooking or loss of amenity to neighbouring residents created would be assessed at the reserved matters stage.

Conclusions

The site is a protected employment site within the Local Plan and this has been reaffirmed in the Employment Land and Premises Study undertaken earlier this year. While the redevelopment of part of the site would be supported the proposal would result in the loss of the majority of the employment land which would have a detrimental impact on the sustainability of the settlement and the ability of this Key Rural Centre to provide the functions and services expected in the Core Strategy.

While the Borough cannot currently demonstrate a 5-year supply of housing it is considered that the proposal is contrary to the spatial vision for Bagworth as set out in the Core Strategy as the development would detrimentally affect the settlements ability to provide localised provision of facilities to reduce the need to travel. The proposal therefore does not meet the criteria of PPS3 paragraph 69 and therefore does not need to be 'considered favourably.'

The proposal is therefore considered contrary to Local Plan Policy EMP1b and Core Strategy policies 7 and 10. While appropriate affordable housing provision and other contributions are proposed as the application is recommended for refusal this will form additional reasons.

**RECOMMENDATION: - That delegated authority be granted to the Deputy Chief Executive (Community Direction) to refuse the application on the following grounds following the expiry of the current consultation period on the 3 November 2010.**

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

**Reasons:-**

- 1 In the opinion of the Local Planning Authority, the proposed development would lead to the unjustified loss of a protected employment site which would adversely impact on the sustainability of Bagworth and its ability to sustain its function as a Key Rural Centre as set out in the adopted Core Strategy (2009). The proposal is therefore contrary to Core Strategy Policies 7 and 10 and Local Plan Policy EMP1b.
- 2 In the opinion of the Local Planning Authority, the applicant has failed to demonstrate that sufficient suitable affordable housing would be provided contrary to Planning Policy Statement 3 and Policy 15 of the Core Strategy.

- 3 In the opinion of the Local Planning Authority, the lack of any definitive measures to address the increase in pressure placed on play and open space facilities of the local area by the proposed development would not accord with Circular 5/05, Policies REC2, REC3 and IMP1 of the adopted Hinckley and Bosworth Local Plan, and the Borough Council's Supplementary Planning Document on Play and Open Space 2008.

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

**Item:** 07

**Reference:** 10/00665/ADV

**Applicant:** Hinckley And Bosworth Borough Council

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

**Proposal:** ERECTION OF NON ILLUMINATED SIGNAGE

**Target Date:** 15 November 2010

#### **Introduction:-**

Advertisement Consent is sought for the display of signage at the Atkins Building. The signage is proposed to be erected on the northern elevation of the building.

Atkins Brothers (Hosiery) Factory also known as the Goddard Building is a Grade II Listed Building. The site previously consisted of a range of buildings used in the hosiery industry. The site is bounded by three roads; its principal frontage to Lower Bond Street, Baines Lane and Druid Street, with a public footpath linking Lower Bond Street to Druid Street. A mix of uses surround the site, of particular note adjacent to the site to the south east is the Unitarian Great Meeting Chapel, Grade II\* listed; the Hollybush Public House to the north east, Grade II; the Museum, Grade II; and the Leicestershire County Council Social Services building to the north. The frameknitters cottages have been recognised as a nationally important building by English Heritage and has been listed Grade II.

The site is located within the settlement boundary of Hinckley and located within Hinckley Town Centres Conservation Area, and is also located within an employment site, as defined by Hinckley and Bosworth's Local Plan (2001).

The signage would be positioned on the northern elevation, 5311mm above the footway, above a new entrance opening and adjacent to 2 no. existing windows. The proposed signage effectively comprises two elements; the Atkins logo with the Atkins name positioned 248mm below. The logo measures 4253 mm in height and maximum of 2693 mm in length, with the name measuring 1188mm in height by 2693 mm in length. In accumulation the proposed sign will measure 5.688 metres in length by 2693 mm in length and will project a maximum of 120 mm from the elevation. The materials proposed are aluminium powdercoated in white.

The application is accompanied by a heritage statement, design and access statement and lighting statement which suggest that the design of the signage has been chosen to enhance the original features of the building using metal to reflect the buildings history within industry.

Initially the proposal included external illumination. However, following concerns that this would have a detrimental impact upon the character and appearance of the Listed Building, a statement removing the illumination has been submitted and the description of proposal has

subsequently been amended to reflect this. Re consultation has been undertaken to clarify that external illumination no longer forms part of the application.

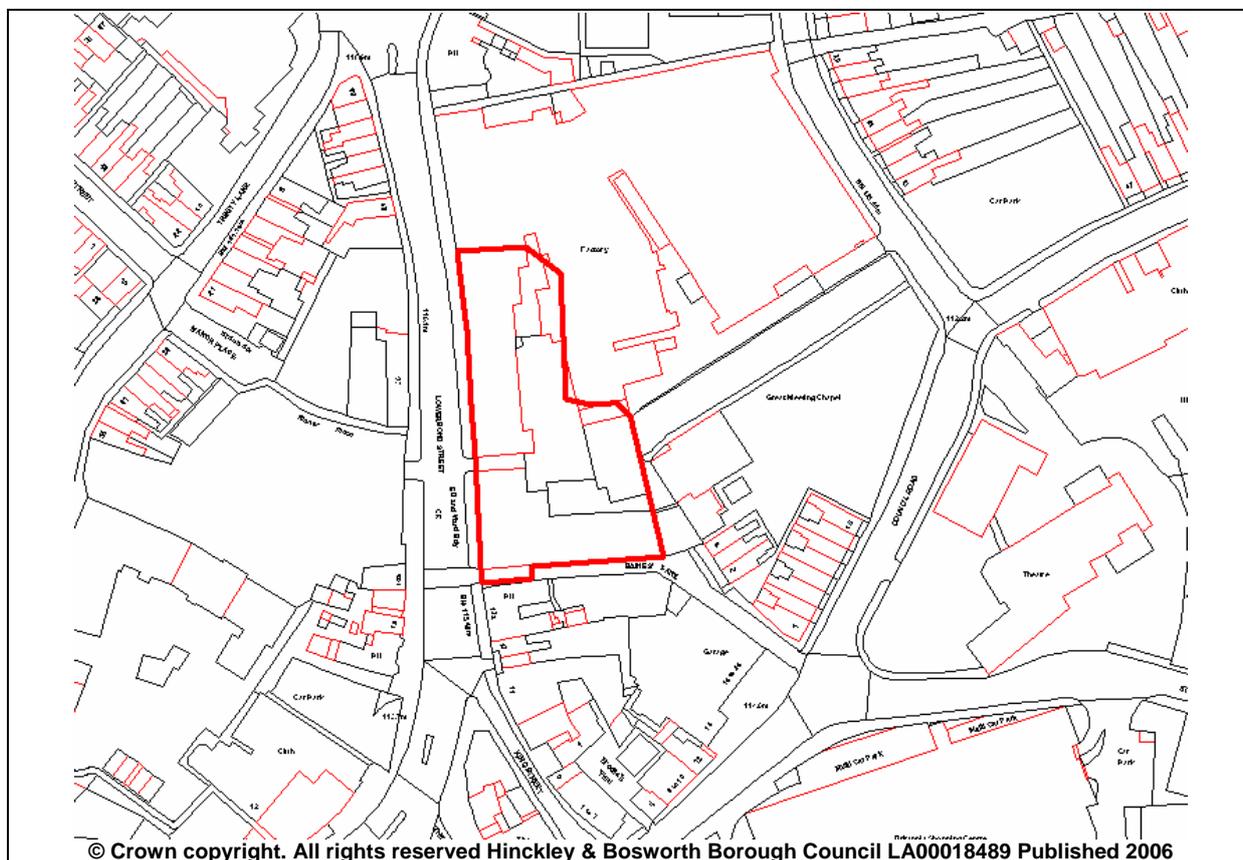
An application for Listed Building Consent (ref: 10/00666/LBC) has also recently been submitted for the display of signage and this application is subject to a separate report also on this committee agenda.

### History:-

Listed Building Consent (ref: 07/01218/LBC) was granted by the Government Office for the East Midlands on 25 January 2008 for the demolition of the vacant post 1920's buildings. Those buildings have since been demolished. Subsequent permission has been granted (ref: 09/00141/DEEM) for the re-development of a new college building and the change of use and conversion (ref: 09/00142/LBC) of the existing Grade II Listed Goddard Building to facilitate use as a creative industries centre. The college building is currently under construction.

### For a full history:-

10/00450/LBC	Amendments to Listed Building	Pending determination of Secretary of State Consent 09/00142/LBC	
10/00271/DEEM	Variation of condition No.2 of Planning Permission 09/00141/DEEM to allow minor material alterations	Permitted	11.06.10
10/00264/DEEM	Variation of condition No.2 of Listed Building Consent 09/00142/LBC to allow external 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 building	Permitted	18.06.10
09/00142/LBC	Conversion and adaptation of the existing Grade II Listed Goddard building to facilitate use as a creative industries centre	Permitted	12.05.09
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	Permitted	04.09.09
09/00003/LBC	Works to windows/openings (including replacement), flat roof covering upgrade, lightning protection, brickwork and timber cleaning and removal of redundant building services	Permitted	30.03.09



**Consultations:-**

Head of Community Services (Land Drainage) has no comment.

Prior to the removal of the external illumination Leicestershire County Council Highways had no objection subject to a condition on illumination which ensures that the light source shall not exceed 600 cd/m2.

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

- Leicestershire Archaeological and Historic Buildings Panel
- Leicestershire County Councils Officer
- Hinckley and Bosworth Borough Council's Conservation Officer
- Hinckley and Bosworth Borough Council's Building Regulations Neighbours.

Site notice and Press notice were displayed and neighbours notified.

The consultation period remains open at the time of writing and does not close until the 4 November 2010. Any further consultation response received before the closing date will be reported and appraised as a late item.

**Policy:-**

Central Government Guidance

Planning Policy Guidance Note 19 - Outdoor Advertisement Control indicates that in relation to outdoor advertisements due regard should be had to interests of amenity and public safety. PPG19 also acknowledges that it is reasonable for more exacting standards to apply in relation to historic environments.

Adopted Hinckley and Bosworth Local Plan (2001)

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

Policy BE7: Development Within Conservation Areas states that primary planning policy will be the preservation or enhancement of their special character. Planning permission for proposals which would harm their special character or appearance will not be granted

Policy BE11: Advertisements in Conservation Areas seeks that where existing advertisements, signs and fascias make a positive contribution to the character of a conservation area, they should be retained. Replacement advertisements, signs, and fascias should be traditionally styled and carefully detailed.

Supplementary Planning Guidance/Documents

Shopping and Shop Fronts SPD sets out the desired design principles of replacement and new shop fronts and signs.

**Appraisal:-**

The main considerations in the determination of this application relate to visual amenity and highway safety.

Visual Amenity

The scale of the signage in comparison to the scale of the northern elevation on which it will be positioned, in addition to the backdrop of the western elevation ensures that the signage appears subservient and does not appear out of scale.

Traditional materials such as timber are usually sought for signage with Conservation Areas. The proposed sign is, however, of a modern design using modern materials. It is considered that the intention is to create a contrast in appearance between the old and new, using metal which would reflect the buildings history within industry.

By reason of design, scale, positioning and appearance, whilst the signage will stand out it is not considered visually prominent within the locality to detract from the character and appearance of the building or surrounding area. It is considered that the signage represents a modern addition, using modern materials which relate to the historic fabric of the Grade II Listed Building.

Highway Safety

Whilst the signage will be located in a prominent location within Hinckley Town Centre and be visible from the junction to the north of Lower Bond Street, it is now considered that the removal of the illumination would alleviate any concerns over the potential of the sign causing highway distractions.

In terms of pedestrian safety, the Highway Authority seek that signs (or part thereof) over a footway must have at least 2.4 metres clearance above the level of footway and 0.5 metres clearance from the edge of the carriage way. The proposed sign would be positioned at a height well above that of the height sought, and as such there are no impacts upon pedestrian safety.

Leicestershire County Council Highway Authority do not have an objection and as such it is concluded that the impact upon highway safety are negligible.

It is considered that by reason of scale and positioning and that the proposed signage would not significantly impact upon highway safety.

#### Impact upon the Setting of the Listed Building and Conservation Area

It is important to protect the architectural integrity of the building in which the signage will be displayed. By reason of scale and appearance it is not considered the signage will have a significant detrimental visual impact on the character of the building itself or surrounding area. In addition, the Atkins building has undergone numerous modern alterations and as such the proposed signage would not adversely impact upon the Grade II building over and above that of previous additions. In relation to the Hinckley Town Centre Conservation Area, whilst traditional materials are usually sought it is considered that the contrast of modern materials upon the traditional building would not be harmful to the character and appearance of the Conservation Area.

#### Conclusion

Although the proposed sign is not of a traditional design using traditional materials it is not considered that the proposed signage would detract from the historic nature of the building itself, or be harmful to the character and appearance of the Conservation Area or surrounding area. It is considered that proposal is acceptable in terms of visual amenity and highway safety. Accordingly, it is recommended that application be granted advertisement consent, subject to conditions.

**RECOMMENDATION:- Subject to no significant material observations being received by the end of the consultation period expiring on the 4 November 2010, the Deputy Chief Executive (Community Direction) shall be granted delegated powers to grant consent to display advertisement for the development subject to the following conditions;**

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as the signage would not be harmful to visual amenity, public safety or impact adversely upon the setting of the Listed Building and Conservation Area.

Hinckley & Bosworth Borough Council Local Plan (2001):- BE1, BE7 and BE11

- 1 The advertisement hereby granted consent shall be displayed solely in accordance with the details and specifications shown on the submitted drawings details: No.18305, Revision B entitled 'Main elevations final dimensions (proposed)' and No.18305 entitled 'Elevation sign section through letter' received by the Local Planning Authority on 20/09/2010 and written statement to amended the application received by the Local Planning Authority on 19/10/10.

- 2 Notwithstanding the information submitted and shown on the section plans the advertisement hereby permitted does not include illumination.
- 3 Any fixings to secure the signage shall be through mortar joints only and not through any brickwork structure of the building, unless otherwise agreed in writing with the Local Planning Authority.
- 4 The signage shall be Ral colour 9006 aluminium white as indicated on the submitted details unless otherwise agreed in writing by the Local Planning Authority and thereafter maintained as such.

**Reasons:-**

- 1&2 For the avoidance of doubt and in the interests of proper planning.
- 3&4 To enable the Local Planning Authority to retain control over this important detail in the interests of preserving the historic character of the building to accord with Policy BE1 and BE7 of the Hinckley and Bosworth Local Plan.

**Notes to Applicant:-**

- 1 You are reminded to comply with the conditions of Listed Building Consent ref: 10/000666/LBC.

**Contact Officer:-** Ebony Mattley Ext 5691

**Item:** 08

**Reference:** 10/00666/LBC

**Applicant:** Hinckley And Bosworth Borough Council

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

**Proposal:** ERECTION OF NON ILLUMINATED SIGNAGE

**Target Date:** 15 November 2010

**Introduction:-**

Listed Building Consent is sought for display of signage at the Atkins Building. The signage is proposed to be erected on the northern elevation.

Atkins Brothers (Hosiery) Factory also known as the Goddard Building is a Grade II Listed Building. The site previously consisted of a range of buildings used in the hosiery industry. The Goddard building is considered an outstandingly large factory for Hinckley and of pivotal importance in Hinckley's hosiery business and townscape. Their obvious industrial appearance is a reminder of the town's industrial past, this appearance has been preserved and enhanced through the recent works to utilise the building as a creative industry centre.

The site is bounded by three roads: Lower Bond Street, Baines Lane and Druid Street, a public footpath links Lower Bond Street to Druid Street. Its principal frontage is to Lower Bond Street. A mix of uses surround the site, of particular note adjacent the site to the south east is the Unitarian Great Meeting Chapel, Grade II\* listed; the Hollybush Public House to the north east, Grade II; the Museum, Grade II; and the Leicestershire County Council Social

Services building to the north. The frameknitters cottages have been recognised as a nationally important building by English Heritage and have been listed Grade II.

The site is located within the settlement boundary of Hinckley and located close to Hinckley Town Centre, within Hinckley's Conservation Area, and is also located within an employment site, as defined by Hinckley and Bosworth's Local Plan (2001).

The signage would be positioned on the northern elevation, 5311 mm above the footway, above a new entrance opening and adjacent to two existing windows. The proposed signage effectively comprises of two elements; the Atkins logo with the Atkins name positioned 248mm below. The logo measures 4253 mm in height by a maximum of 2693 mm in with the name measuring 1188 mm in height by 2693 mm wide. In accumulation the proposed sign will measure 5.688 metres in length by 2693 mm wide and will project a maximum of 120 mm from the elevation. The materials proposed are aluminium powdercoated in aluminium white.

The application is accompanied by a heritage statement, design and access statement and lighting statement which suggest that the design of the signage has been chosen to enhance the original features of the building, using metal to reflect the buildings history within industry.

Initially the proposal included external illumination, however, following concerns that this would have a detrimental impact upon the character and appearance of the Listed Building, a statement removing the illumination has been submitted and the description of proposal has subsequently been amended to reflect this. Re-consultation has been undertaken to clarify that external illumination no longer forms part of the application.

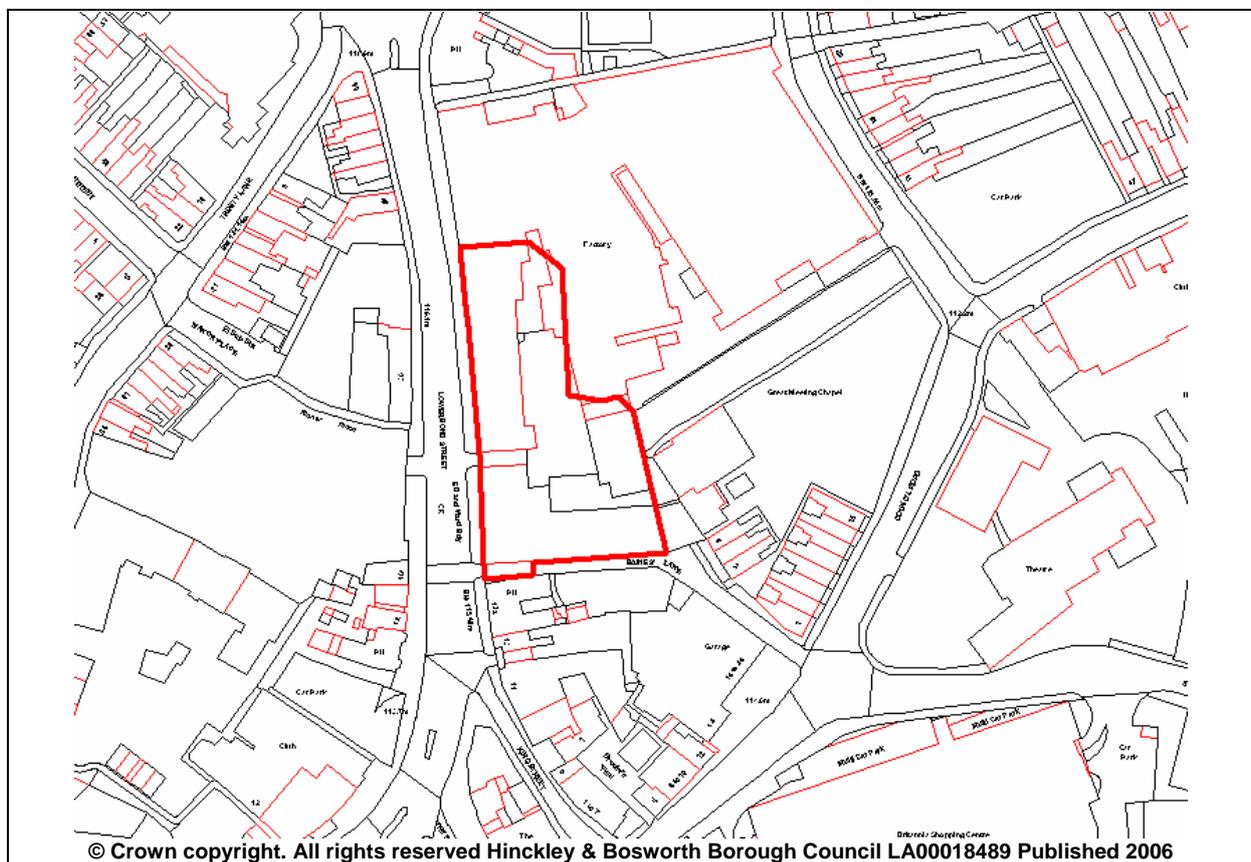
An application for Advertisement Consent (ref: 10/00665/ADV) has also recently been submitted for the display of signage and this application is subject to a separate report also on this committee agenda.

**History:-**

Listed Building Consent (ref: 07/01218/LBC) was granted by the Government Office for the East Midlands on 25 January 2008 for the demolition of the vacant post 1920's buildings. Those buildings have since been demolished. Subsequent permission has been granted (ref: 09/00141/DEEM) for the re-development of a new college building and the change of use and conversion (ref: 09/00142/LBC) of the existing Grade II Listed Goddard Building to facilitate use as a creative industries centre.

10/00450/LBC	Amendments to Listed Building	Pending determination by Secretary of State Consent 09/00142/LBC
10/00271/DEEM	Variation of condition No.2 of Planning Permission 09/00141/DEEM to allow minor material alterations	Permitted 11.06.10
10/00264/DEEM	Variation of condition No.2 of Listed Building Consent 09/00142/LBC to allow external 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 building	Permitted 18.06.10

09/00142/LBC	Conversion and adaptation of the existing Grade II Listed Goddard building to facilitate use as a creative industries centre	Permitted	12.05.09
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	Permitted	04.09.09
09/00003/LBC	Works to windows/openings (including replacement), flat roof covering upgrade, lightning protection, brickwork and timber cleaning and removal of redundant building services	Permitted	30.03.09



**Consultations:-**

Head of Community Services (Land Drainage) has no comment.

Prior to the removal of the external illumination Leicestershire County Council Highways had no objection subject to a condition on illumination which ensures that the light source shall not exceed 600 cd/m<sup>2</sup>.

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

English Heritage  
Leicestershire Archaeological and Historic Buildings Panel  
Leicestershire County Councils Officer  
Hinckley and Bosworth Borough Council's Conservation Officer  
Hinckley and Bosworth Borough Council's Building Regulations  
Neighbours.

Site notice and Press notice were displayed and neighbours notified.

The consultation period remains open at the time of writing and does not close until the 4 November 2010. Any further consultation response received before the closing date will be reported and appraised as a late item.

### **Policy:-**

#### Central Government Guidance

Planning Policy Statement 5 (PPS5) - Planning for the Historic Environment (2010) indicates that local planning authorities should consider the impact of any proposal on any heritage asset and that there should be a presumption in favour of the conservation of designated heritage assets. Heritage assets include Listed Buildings and Conservation Areas, including their setting.

Section 72 (1) of the Planning (Listed Buildings and Conservation Area) Act 1990 provides that where an area is designated as a conservation area "...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" in the exercise of any of the provisions of the Planning Acts. This includes the control of outdoor advertisements.

Special care is essential to ensure that any advertisement displayed on, or close to, a listed building or scheduled monument does not detract from the integrity of the building's design, historical character or structure, and does not spoil or compromise its setting.

#### Local Development Framework Core Strategy (2009)

None relevant.

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

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

Policy BE5: The Setting of a Listed Building states that setting of a listed building will be preserved and enhanced by appropriate control 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

### **Appraisal:-**

The main considerations in the determination of this application relate to the impact of the proposal on the character and integrity of the Grade II Listed Building.

### Impact on Listed Building

Lower Bond Street is a major entry route into the town centre from the north. The Atkins building is considered an outstandingly large factory for Hinckley and of pivotal importance in Hinckley's hosiery business and townscape. The group of surrounding buildings form a significant local heritage landmark which is visible from several points in the area.

It is considered important to protect the architectural integrity of the building in which the signage will be displayed. The proposed signage would not affect any of the original features of the Grade II Listed Building; its intention is to create a modern contrast against a traditional backdrop. It is considered that the proposed signage would not have a detrimental impact on the character and appearance of the Grade II Listed Building.

### Conclusion

Resultant of the scale and design, it is not considered that the proposed signage would detract from the historic nature of the Grade II Listed Building. Whilst the northern elevation of Lower Bond Street occupies a prominent location on the entrance to Hinckley town centre, it is not considered that the proposal would adversely impact upon the setting and character of the Listed Building. In conclusion this application is considered acceptable.

Section 82 of the Act and Regulation 13 of the Planning (Listed Building and Conservation Areas) Regulations 1990 requires that applications by a Local Planning Authority on its own land for Listed Building consent are to be made to the Secretary of State following the committee resolution.

**RECOMMENDATION: - That powers be delegated to the Deputy Chief Executive (Community Direction) to refer the application to the Secretary of State following the expiry of the consultation period on 4 November 2010 and resolution of matters that may arise, in accordance with Regulation 13 of the Planning (Listed Building and Conservation Areas) Regulations 1990.**

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

Having regard to the historic fabric, character and setting of the Grade II Listed Building, designs and uses of materials, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed works would be in accordance with the development plan as resultant of scale and design, it is not considered that the proposed signage would detract from the historic nature of the Grade II Listed building itself.

Hinckley & Bosworth Borough Council Local Plan (2001):- BE4, BE5.

- 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: No.18305, Revision B entitled 'Main elevations final dimensions (proposed)' and No.18305 entitled 'Elevation sign section through letter' received by the Local Planning Authority on 20 September 2010 and written statement to amended the application received by the Local Planning Authority on 19 October 2010.
- 3 Notwithstanding the information submitted and shown on the section plans the advertisement hereby permitted does not include illumination.

- 4 Any fixings to secure the signage shall be through mortar joints only and not through any brickwork structure of the building, unless otherwise agreed in writing with the Local Planning Authority.
- 5 The signage shall be Ral colour 9006 aluminium white as indicated on the submitted details unless otherwise agreed in writing by the Local Planning Authority and thereafter maintained as such.

**Reasons:-**

- 1 To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 2&3 For the avoidance of doubt; to ensure the works are commensurate to the historic environments.
- 4&5 To enable the Local Planning Authority to retain control over this important detail in the interests of preserving the historic character of the building to accord with Policy BE4 and BE5 of the Hinckley and Bosworth Local Plan.

**Notes to Applicant:-**

- 1 You are reminded to comply with the conditions of Advertisement Consent ref: 10/00665/ADV.

**Contact Officer:-** Ebony Mattley Ext 5691

**Item:** 09

**Reference:** 10/00684/FUL

**Applicant:** Mrs Anne Morris

**Location:** Higham Fields Basin Bridge Lane Stoke Golding Leicestershire

**Proposal:** PART DEMOLITION OF EXISTING AGRICULTURAL BUILDINGS AND RENOVATION INCLUDING PITCHED ROOF

**Target Date:** 3 November 2010

**Introduction:-**

This application seeks full planning permission for part demolition and renovation, including a new pitched roof, of an isolated range of traditional agricultural buildings located in agricultural fields approximately one mile east of Higham-on-the-Hill between Basin Bridge Lane and Wykin Lane, Stoke Golding. The proposed works would result in a full, two-storey, single cell at the north end of the range, a one and a half storey bay to its south and the full single storey range of five bays to the south with open sides to the east, all having central ridge roofs and a link-detached single storey cell with monopitch corrugated roof and new oak doors to the west. A ruined section further to the west would be demolished with the resulting materials recovered for re-use as part of the renovation proposals.

The site currently comprises of a number of buildings arranged around a former yard. The buildings are constructed of traditional red brick with clay roof tiles and corrugated sheets in varying structural condition, including partial collapse. There is a two-storey element at the north end, a single storey range to its south, a link detached single storey building to the west

and a ruin beyond to the west. There is no metalled track to the site, access being via inter-village footpaths which pass immediately to the north or through privately owned fields.

The Planning Statement submitted to support the application suggests that the buildings are the surviving remains of a small 'outfarm' shown on the First Edition OS map (dated 1888) although the appearance and dimensions of earlier brickwork suggests the initial construction was pre 1880. Whilst these type of buildings were once commonplace, few now survive. The statement advises that in view of their rarity and historic importance it is essential to undertake the proposed works, in partnership with Natural England, to preserve the buildings for future generations. In addition, it is intended that the buildings be put back into use as functional agricultural buildings. Works to the existing buildings, such as installing new floors, are an essential part in achieving both objectives. Additional work to create a workable solution for modern agricultural requirements has also been introduced.

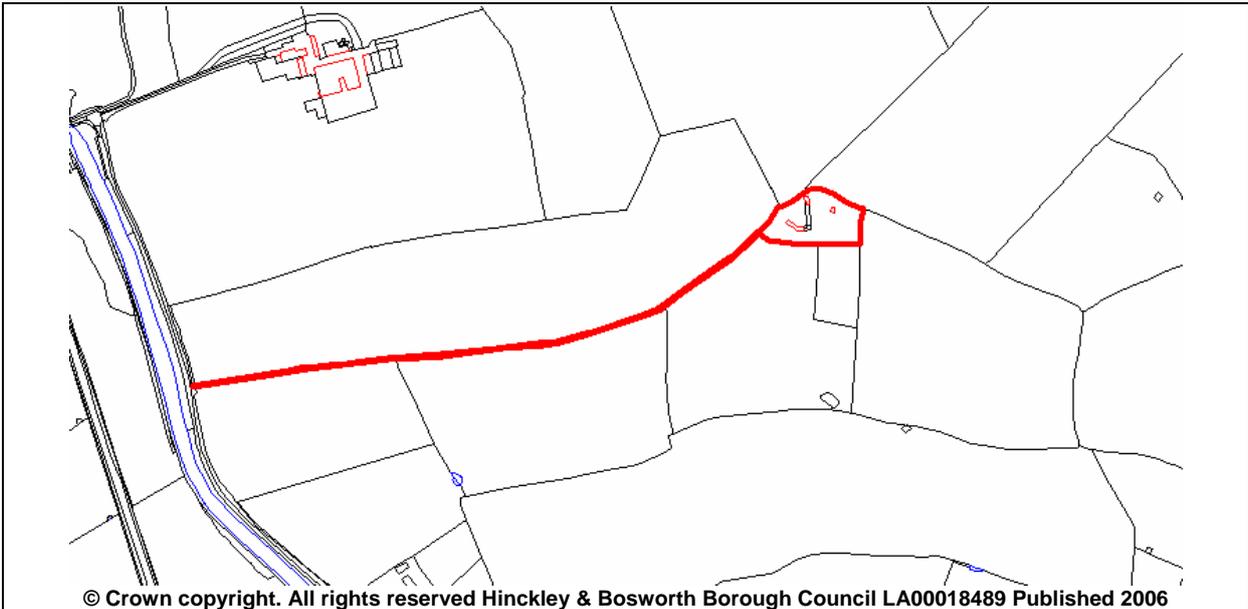
A Historic Fabric Report has been submitted to support the application and is also required by Natural England as a qualifying element for Grant Aid associated with their Higher Level Stewardship Agreement. The report examines the historical and physical context of the buildings including its architectural features and the materials used in its construction and subsequent repair. The report concludes that following the extensive research, the proposed renovation works are considered to restore the buildings to their earliest form for which adequate evidence exists i.e. as a small late 18th/early 19th century post-enclosure farmstead.

The Structural Survey describes the buildings as being masonry structures in a dilapidated condition and with partial collapse having occurred to all the structures to varying degrees. It concludes that the buildings are in a poor condition and recommends extensive repair and replacement parts of the buildings fabric to maintain the buildings.

The Updated Wildlife Survey concludes that the proposed development would not impact on bats, however, it recommends that works to repair the buildings should be preceded by further surveys and/or a watching brief as the buildings provide potential for hibernation. An area of scrub should be maintained to the west to provide foraging for bats. A mitigation plan including the provision of nest boxes and other breeding facilities are recommended in respect of birds as various nesting and use activity was identified.

**History:-**

No relevant planning history relating to these buildings.



## **Consultations:-**

No objection has been received from:-

Chief Executive, Leicestershire County Council (Archaeology)  
Director of Environment and Transport (Rights of Way)  
Head of Community Services (Pollution)  
Head of Community Services (Land Drainage).

No objection subject to conditions has been received from:-

Director of Environment and Transport (Highways)  
Chief Executive, Leicestershire County Council (Ecology).

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

Stoke Golding Parish Council  
Stoke Golding Heritage Group  
Ramblers  
Site notice  
Neighbours.

## **Policy:-**

### National Planning Guidance

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

Planning Policy Statement 5 (PPS5): 'Planning for the Historic Environment' seeks to protect and maintain heritage assets for the long term and ensure that they are put to an appropriate and viable use that is consistent with their conservation. Local planning authorities should take into account the nature of the significance of the heritage asset, the desirability of sustaining the heritage asset and the value that it holds for future generations. Consideration of design should include scale, height, massing, alignment, materials and use.

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' states that all development in rural areas should be in keeping with its location and sensitive to the character of the countryside and local distinctiveness. Paragraph 17 supports the re-use of appropriately located and suitably constructed existing buildings in the countryside where this would meet sustainable development objectives. The criteria for permitting such re-use should take account of the potential impact on the countryside and wildlife and the need or desirability to preserve buildings of historic or architectural importance or interest which contribute to local character.

Planning Policy Statement 9 (PPS9): 'Biodiversity and Geological Conservation' seeks to protect and enhance sites of ecological importance. This PPS states that conditions should be used to mitigate any harmful aspects of development and where possible ensure the conservation and enhancement of the sites biodiversity interest.

## Local Policy

### Local Development Framework Core Strategy (2009)

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

### Hinckley and Bosworth Local Plan (2001)

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

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

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

Policy NE5 of the adopted Local Plan states that the countryside will be protected for its own sake. However, planning permission will be granted for development provided that it is for the re-use of existing buildings and where it does not have an adverse effect on the appearance or character of the landscape and is in keeping with the scale and character of the existing buildings and general surroundings.

### **Appraisal:-**

The main considerations with regards to this application are the principle of development and the impact of the proposals on the character and appearance of the buildings and the surrounding countryside.

### Principle of Development

Both national and local planning policies seek to protect and enhance the historic environment and sites of cultural heritage interest for the long term and ensure that they are put to an appropriate and viable use that is consistent with their conservation. In this case, the buildings are identified in the extensive and detailed Historic Fabric Survey as being of significance as a representation of a rare example of a small post-enclosure farmstead dating to the late 18th/early 19th century. As a result of the survey, national England have confirmed grant aid funding of 80% of the project should planning permission be approved. In addition, national and local planning policies support the re-use of appropriately located and suitably constructed existing buildings in the countryside, particularly where they contribute to local character. In this case, the proposals would preserve and enhance buildings of historic significance and return them to a functional agricultural use, consistent with their location and historic use and also secure their long term viability. Overall, it is considered that the proposed development would be consistent with the aims of national and local planning policies and, therefore, is acceptable in principle in this case.

## Design, Character and Appearance

The Historic Fabric Survey provides detailed evidence from both desk-based research and examination of the existing building fabric that the proposed design, scale and materials would represent 'a faithful indication' of the appearance of the buildings in the late 18th/early 19th century, albeit with some additional works, that would not detract from their character or appearance, to ensure a practical solution for the use of the buildings for modern agricultural requirements. The pitched roof of the two storey bay still exists and there is evidence for the height of the roof ridge of the 1½ storey bay. Whilst examination of the existing fabric provides no evidence in respect of the roof of the single storey range to the south, the Historic Fabric Survey refers to both contemporary writers and modern studies which provide evidence that the pitched roof design would be consistent for this type of building in that period.

The proposals involve the replacement and repair of the existing building fabric, including the re-use of existing openings, and the works are restricted to their original footprint. No extensions are proposed that would alter or detract from the original form of the buildings or have an adverse effect on the character or appearance of the buildings or the surrounding countryside. Whilst extensive repair works are identified by the structural survey as being required to the existing fabric, it is considered that, given the significance of the buildings, the works can be justified in this case on conservation grounds. If repair is not undertaken, further deterioration of the remaining buildings is likely and they may then become beyond reasonable repair as is the case with the south west element that it is proposed to demolish. The removal of this ruined structure would enhance the appearance of the overall site and provide reclaimed materials for re-use where possible within the renovation works on the surviving buildings. The success of the conservation proposals will depend to a significant degree on the method and materials to be used in the development and, therefore, should the application be approved it is considered reasonable to impose conditions requiring further details to be provided for approval prior to commencement of any works.

## Other Issues

Director of Environment and Transport (Highways) does not object but recommends that the use of the buildings should be restricted to agricultural use only and that the development should remain ancillary to the existing agricultural use of the site and not separately disposed of. The proposals include only agricultural use of the buildings and any other use would be controlled by the requirement for separate planning permission. The application site is clearly defined by the red edge on the submitted plans. It is therefore considered that conditions are not necessary to address these issues in this case.

Director of Environment and Transport (Rights of Way) does not object to the proposals as the works will not directly affect nearby public footpaths.

The Chief Executive, Leicestershire County Council (Ecology) does not object to the proposals subject to the recommendations and mitigation measures contained in the Updated Wildlife Survey in order to protect and enhance biodiversity within an around the site. These measures can be secured by an appropriately worded condition.

The Chief Executive, Leicestershire County Council (Archaeology) does not require any archaeological investigation in respect of the development as they consider that the works described will have limited impact on the site.

## Conclusion

The re-use of existing buildings within the countryside for agricultural purposes is acceptable in principle and in this case, whilst the proposed renovation works are extensive, they are considered necessary to achieve the desired preservation and long term viability of these buildings of historical significance that have become a rare feature within the farming

landscape. Evidence has been submitted to suggest that the design and scale of the proposals would restore the buildings to their earliest form for which accurate evidence exists. Subject to the use of appropriate methods and materials, the proposals would not have an adverse impact on the character or appearance of the buildings or the surrounding countryside. The proposals would not adversely affect ecology, archaeology or nearby public footpaths. 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 historic fabric, character and setting of the buildings and their design and use of materials, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as: it would secure the structural integrity and long term viability of historically important buildings with part demolition, renovation and repairs that would be sympathetic to, and would not adversely affect, the remaining historic fabric of historic interest; and it would enhance the character and appearance of the buildings and their setting.

Hinckley & Bosworth Local Development Framework Core Strategy (2009):- Spatial Objectives 10 & 11.

Hinckley & Bosworth Borough Council Local Plan (2001):- Policies BE1, BE20 and NE5.

- 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 Drawing No. 01; Block Plan Drawing No. 08 and Proposed Plans and Elevations Drawing No. 09 received by the local planning authority on 8 September 2010.
- 3 Prior to any development commencing, full details of the method by which the existing structures are to be supported and retained whilst the works for renovation and repair hereby permitted are carried out and constructed shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved method statements.
- 4 All materials to be used in the development hereby permitted shall be in accordance with a schedule of materials and finishes, including facing bricks, brick bonding and pointing, copings, roof tiles and lintels, which shall first have been submitted to and approved in writing by the local planning authority.
- 5 All works making good to the existing fabric of the building shall be carried out in reclaimed materials which shall match the existing materials in size, colour and texture and which shall be bonded and pointed in the manner prevailing in the building unless otherwise agreed in writing with the local planning authority.
- 6 Notwithstanding the submitted details, before any development commences full details of all openings, doors and rainwater goods, including detailed section drawings to a scale of 1:10, shall be submitted to and agreed in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 7 Before any development commences full details of the extent of any new foundations and underpinning shall be submitted to and approved in writing by the local planning

authority. The development shall be implemented in accordance with the approved details.

- 8 The development hereby approved shall be carried out in accordance with: the obligations and recommendations contained in Sections 9 and 12.3; and mitigation measures contained in sections 10.1, 10.3 and 12.4 within the submitted Higher Land Stewardship Wildlife Survey (Revision A) dated 22 September 2010 carried out by Ecolocation.

**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 enable the local planning authority to retain control over this important detail in the interests of preserving the historic character and appearance of the buildings to accord with policy BE20 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 5.
- 4 To enable the local planning authority to retain control over the final appearance of the buildings in the interests of preserving the historic character and appearance of the buildings to accord with policy BE20 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 5.
- 5-7 To enable the local planning authority to retain control over this important detail in the interests of preserving the historic character and appearance of the buildings to accord with policy BE20 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 5.
- 8 To ensure adequate protection of species protected by law and to ensure that any necessary mitigation measures are implemented throughout the development to accord with Planning Policy Statement 9.

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 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 The developer is requested to provide two weeks notice of the intent to commence the works hereby approved on site to the Borough Council's Conservation Officer, Mr B. Whirrity (01455 255619).
- 5 The applicant is advised that this planning permission relates to use of the buildings for agricultural purposes only, for the avoidance of doubt.

- 6 A public footpath passes close to the north of the buildings and this must not be obstructed or diverted or otherwise altered without obtaining separate consent from Leicestershire County Council.

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

**Item:** 10

**Reference:** 10/00687/FUL

**Applicant:** Mr D Fox

**Location:** Fields Farm Lutterworth Road Burbage Hinckley Leicestershire

**Proposal:** ERECTION OF A DETACHED FARM BUILDING (RETROSPECTIVE)

**Target Date:** 11 November 2010

**Introduction:-**

The application seeks retrospective planning permission for the erection of a detached farm building. The application follows an investigation into unauthorised development (ref: 10/00049/UNAUTH).

Fox Fields Farm is located outside development limits and is defined as a local landscape improvement site within Hinckley and Bosworth's Local Plan (2001). The site of approximately two hectares is located close to the settlement boundary of Burbage and is bordered to the north west by the M69, to the east by Lutterworth Road, with Workhouse Lane to the south and west. The associated farm house and other buildings used in conjunction with this use, are located to the south of the site with the nearest neighbouring dwelling 'The Hollies', Lutterworth Road located further to the south.

The detached farm building is located on an existing footprint of an original farm building, which has since been demolished. It is located to the west of the application site using an existing access. The farm building comprises two elements the general farm store which has already been implemented and a feed store which has commenced, but has not yet been completed. The existing farm does contain livestock, however, the use of the building in question is to remain as storage of farming machinery and feed.

The general farm store measures a maximum of 7.2 metres in depth, 15.2 metres in length, measuring 3.45 and 5.2 metres to the eaves and ridge, respectively. The front and rear elevation of the farm store is constructed in concrete breeze blocks to a height of 1.2 metres, with 2.25 metres of green painted metal sheets to the eaves. The roof and vehicle roller shutter doors to the front elevation are also constructed in green painted metal sheets. The side elevations comprise concrete breeze blocks to a height of 3.15 metres with the roof in green painted metal sheets. There are also two high level windows and one pedestrian door in the southern side elevation and one high level window in the northern side elevation.

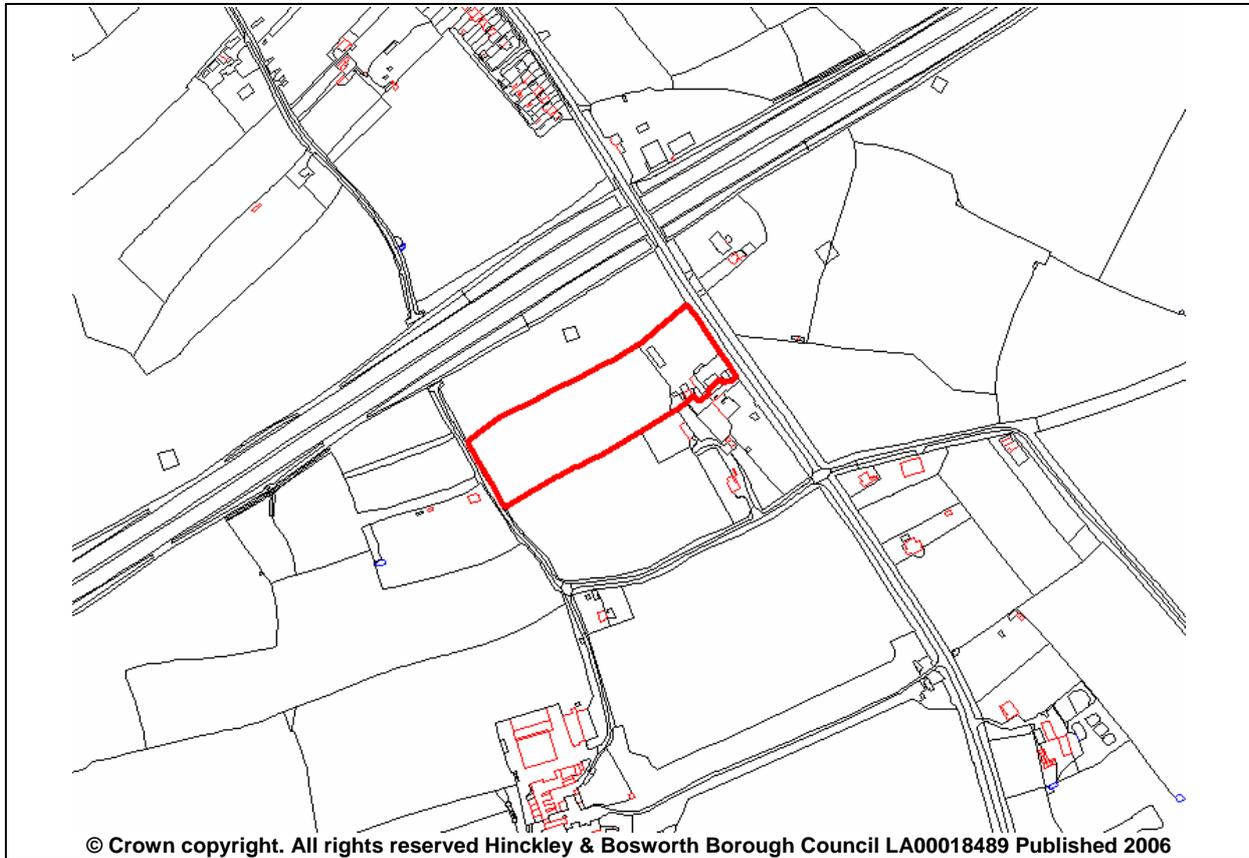
The general farm store would be immediately adjoined to the northern elevation by a feed store. The proposed feed store would measure approx 7.2 metres in depth by 7.25 metres in length, the roof form comprises a shallow mono pitch roof. The walls to the feed store will be concrete breeze blocks, green painted metal sheeting for the roof and a concertina metal door.

The application is accompanied by a design and access statement that identifies the principle, use, scale, layout, design, landscaping, access and parking provision. An

additional statement was supplied (05 October 2010) which has justified the scale of the farm building in more detail.

### **History:-**

An application for retrospective planning permission has been submitted following an enforcement enquiry (ref: 10/00049/UNAUTH) which found that no formal prior planning approval had been sought.



### **Consultations:-**

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

The Director of Highways, Transportation and Waste Management requests that the use of the building be restricted to agricultural use and no other business, commercial nor residential use shall be permitted.

The Environment Agency do not feel that the application is a high risk to the environment or is able offer significant environmental benefit and therefore do not wish to comment further.

Head of Community Services (Land Drainage) state that the suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively, assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.

One letter received from neighbouring property stating they have no objection to the application providing that it is not used for commercial purposes.

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

Burbage Parish Council  
Other neighbouring dwellings.

The consultation period remains open at the time of writing and does not close until the 25 October 2010. Any further consultation response received before the closing date will be reported and appraised as a late item.

Site notice was displayed and neighbours notified.

### **Policy:-**

#### Central Government Guidance

Planning Policy Statement 7 (PPS7) 'Sustainable Development in Rural Areas' seeks to ensure that development in the countryside is sustainable, and that new building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled.

The Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all. It goes on to say that all development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.

More specifically to farming, PPS7 states that's Planning Authorities should be supportive of well-conceived farm diversification schemes for business purposes that contribute to sustainable development objectives and help to sustain the agricultural enterprise, and are consistent in their scale with their rural location. This applies equally to farm diversification schemes around the fringes or urban areas. It also states that where relevant, Local Authorities should encourage the re-use or replacement of existing buildings where feasible and have regard to the amenity of any nearby residents or other rural businesses that may be adversely affected by new types of on-farm development

#### Local Development Framework Core Strategy (2009)

No relevant policy.

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

The site is located in the countryside, outside of the settlement boundary of Burbage.

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

Policy NE5 states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is either: important to the local economy and cannot be provided within or adjacent to an existing settlement; is for the change of use, re-use or extension of existing buildings; and only where

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

Policy NE10 states that any development permitted should include comprehensive landscaping proposals.

### Supplementary Planning Guidance/Documents

Design of Farm Buildings Supplementary Planning Guidance (SPG) (2004) states that the position of a new farm building or structure is usually dependant on its function and the space available. There are other factors that should be taken into account, such as the visual importance of the building, both in the wider landscape, and within the farm complex itself. The function of building will influence the scale and type of building and the long term agricultural requirements of the building should also be considered.

### **Appraisal:-**

The main considerations in the determination of this application relate to the principle of development, impact on the countryside, design, impact on residential amenity and other issues.

### Principle of Development

The principle of the agricultural use of the plot and the erection of an agricultural building to service the plot, is considered acceptable in this countryside location. PPS7 supports development that delivers sustainable farming enterprises and it is considered that the building will strengthen the viability of the agricultural holding and consequently contribute to the rural economy.

### Impact on the Countryside

The siting of any new building in the countryside is important in view of the visual impact it can have on the landscape. Wherever possible new buildings should be located close to existing buildings or landscape features.

Whilst the building is not located close to existing farm buildings to the south, it is located to the west of the site close to existing landscape features in the form of mature hedge lines. The farm building is not visible from the south or west from Workhouse Lane due to a mature hedge line, nor is it visible from the east from Lutterworth Road due to a mature hedge line and large wooden gate serving the vehicle access. In terms of views from the North, there is the presence of a boundary hedge running the length of the northern boundary and the M69 is in close proximity running east to west both of which screen the development. The location of the farm building ensures that it would not be visible from any elevation, and as such it is considered that the proposal does not have a visual impact upon the countryside.

By reason of scale and design the farm building is considered in keeping with the character and appearance of a farm setting. In addition, given the nature of the existing contained farm complex, it is not considered that the location of the building would appear to encroach upon the countryside.

By reason of location and design it is considered that the building assimilates into the countryside and is not detrimental to the character and appearance of the countryside. It is considered that the farm building does not significantly impact upon the appearance and amenity of the surrounding countryside.

## Design

The Design of Farm Buildings SPG sets out the principles of Siting and Designing a new farm building or structure.

### Siting within the Farm Complex

There are other farm buildings and structures within the site, which are mainly located to the south of the site. The building has been located on the same footprint of the previous building it has been replaced. Whilst farm buildings are usually required to be sited in close proximity, the siting further to the south would be in closer proximity to residential dwellings.

The siting is considered acceptable as it is located away from residential dwellings and to the west of the farm complex where it can be screened by the presence of mature hedgelines. It is not considered that the location of the farm building would encroach upon the countryside.

### Designing the New Farm Building

The SPG recognises that on the whole, modern farm buildings tend to be larger than their traditional counter-parts due to the introduction of new agricultural practices and machinery resulting in higher, larger span buildings. The written statement accompanying this application lists a number of factors in support of the scale of the building; the farm building is on the site of an existing building of the same size, other buildings are not suitable for storage, increased need for security on site, storage of hay and straw to be kept dry, and storing larger quantities of feed for economies of scale, in the interests of keeping the farm running financially viable. The size of the farm building is considered acceptable in the interest of keeping the farm running financially viable in line with PPS7.

The design and appearance of the farm building uses proportions and finishes which are considered common in the construction of farm buildings in agricultural settings. The walls are divided into two materials of concrete blocks to the lower portion and green metal sheeting to the upper portion. However, in terms of the concrete blocks it is considered that the design and appearance of the proposed building could be improved by the use of timber cladding to cover the proposed breezeblock construction areas or the finishing in a dark brown colour. Following discussions with the agent, the applicant has suggested that the concrete breeze blocks could be painted dark brown. A condition is suggested to secure this improvement.

### Residential Amenity

The nearest residential dwellings is 'The Hollies', Lutterworth Road located to the south of the application site, however, it is considered that the farm building is located at a sufficient distance away not to be affected. In addition, there is substantial screening by mature vegetation to all boundaries and as such it is not considered that there is any detrimental affects upon residential amenity.

### Other Materials Considerations

#### Landscaping

The site lies within an area identified as a local landscape improvement area. It is considered that the proposal is within a well screened site and as such additional landscaping would not be required in accordance with Policy NE10.

#### Highways Considerations

There are no proposed changes to the access. No additional traffic would be created over and above that of the existing.

## Drainage

There are no proposed changes to the drainage. The existing farm does contain livestock, however, the use of the building in question is to remain as storage of farming machinery and feed. Historically the development control process has sought to control the design of drainage systems, however in more recent years further control is now delivered through the Building Regulation. Accordingly, in this case no drainage conditions are considered necessary.

## Conclusion

It is considered that the principle of an agricultural farm building in this location is considered acceptable in line with NE5 and PPS7.

The proposed building is of a similar footprint to existing agricultural buildings that it has replaced. It is a modern design, using common materials within an agricultural setting. It is considered that the scale, materials, colouring and detailing are in accordance with the principles of designing a new farm buildings as stated in Design on Farm Buildings SPG.

In terms of the impact on the countryside and residential amenity, trees and vegetation play a vital role in reducing the visual impact of the building from all elevations. The site is well screened and the positioning and design of the building ensures that there are no significant impacts upon the appearance and amenity of the surrounding countryside. It is considered that the proposal accords with policies NE5 and BE1, is not adversely affecting the character and appearance of the countryside or the occupiers of neighbouring dwellings.

The proposal is compliant with planning policy at both national and local levels. Accordingly, it is therefore recommended that planning permission be granted, subject to conditions.

**RECOMMENDATION :- Permit subject to no significant material objections being received prior to the expiry of the consultation period on 25 October 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 principle and design of the farm building is considered acceptable and there are no material impacts on either the character of the countryside or upon residential amenity.

Hinckley & Bosworth Borough Council Local Plan (2001):- Policies BE1, NE5, NE10 and Design of Farm Buildings SPG.

- 1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details and drawing numbers 10/023/01/1 and 10/023/02/2 received on 16 September 2010.
- 2 Notwithstanding the details submitted on the approved plan, the concrete breeze blocks shall be painted a dark brown finish within 3 months of the date of this permission.

### **Reasons:-**

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

- 2 To ensure a satisfactory standard of external appearance to comply with policy BE1 of the adopted Hinckley and Bosworth Local Plan.

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

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site [www.planningportal.gov.uk](http://www.planningportal.gov.uk).
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The finish to the concrete breeze blocks shall be painted in one of the following British Standard Colours; BS381C 411, BS381C 412, BSC381C 350 or BSC381C 436.

**Contact Officer:-** Ebony Mattley Ext 5691

**Item:** 11

**Reference:** 10/00708/FUL

**Applicant:** Mr James Connor

**Location:** 324 Station Road Bagworth Coalville Leicestershire LE67 1BN

**Proposal:** DEMOLITION OF EXISTING DWELLING AND ERECTION OF ONE NEW DWELLING

**Target Date:** 19 November 2010

#### **Introduction:-**

This application seeks full planning permission for the demolition of a detached two storey dwelling and the erection of a detached dormer bungalow at 324 Station Road, Bagworth. The proposed dwelling would occupy a slightly larger, generally rectangular, footprint than the existing dwelling and be set forward of the adjacent dwelling to the south (No. 322). The proposed eaves height would be 2.6 metres with a ridge height of 7 metres. The design includes a slightly subordinate projecting gable, a dormer window and a velux window to the front elevation and a central dormer window to the rear elevation.

The existing two storey dwelling occupies a large elongated plot measuring approximately 670 square metres and is set forward of the adjacent dwelling to the south (No. 322). The dwelling has a plain, gable fronted design with a small flat roof single storey side element, is rendered with a slate roof and suffering from subsidence. The front boundary is defined by a brick wall of varying height of between 1.8 and 1.4 metres with a pair of iron railing gates providing vehicular access. The front garden is enclosed by 1 metre high fencing constructed of concrete post and timber infill panels and the rear garden by 2 metres high fencing of similar construction.



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

Chief Executive, Leicestershire County Council (Ecology)  
Bagworth & Thornton Parish Council  
Head of Business Development and Street Scene Services (Waste Minimisation)  
Site Notice  
Neighbours.

The consultation period remains open at the time of writing and closes on 2 November 2010. Any further consultation response received before the closing date will be reported and appraised as a late item.

### **Policy:-**

#### National Planning Guidance

Planning Policy Statement 3: 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to ensure that housing developments are in suitable locations, which offer a good range of community facilities, with good access to jobs, key services and infrastructure. Paragraph 12 states that good design is fundamental to the development of high quality new housing.

#### Local Policy

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

Policy 7: 'Key Rural Centres' states that the council will support housing development within settlement boundaries that provides a mix of housing types and tenures.

Policy 10: 'Key Rural Centres within the National Forest' states that land will be allocated for a minimum of 60 new homes at Bagworth.

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 new development in key rural centres to meet sustainability targets set out in 'Building a Greener Future'

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

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

Policy RES5: 'Residential Proposals on Unallocated Sites' 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: '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, density, design, materials and architectural features; ensure adequate highway visibility and parking standards and manoeuvring facilities and do not adversely affect the amenities of neighbouring properties.

Policy T5: 'Highway Design and Vehicle Parking Standards' 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: 'New Residential Development Outdoor Play Space for Children' requires the appropriate level of children's play space to be provided within development sites. Alternatively, a financial contribution can be negotiated towards the provision and maintenance of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

### Other 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 highways and parking.

### **Appraisal:-**

The site is located within the settlement boundary of Bagworth as defined by the adopted Hinckley and Bosworth Local Plan. The principle of demolishing the existing dwelling and rebuilding a replacement dwelling is, therefore, considered acceptable. The application site also benefits from an existing vehicular access point from a small service road off Station Road leading to an area surfaced by loose stones/gravel providing adequate off-street parking and turning facilities within the site such that the proposal would not result in any adverse effect on highway safety. The main issues for consideration in this case are, therefore, the design and appearance of the proposed dwelling and its impact on the wider street scene and the amenities of the occupiers of neighbouring properties together with other issues.

### Design and Appearance

The existing dwelling has no significant architectural merit and shows signs of being affected by subsidence. Rather than underpinning the existing building the applicant has, therefore, decided to demolish it and rebuild a new dwelling to modern building regulations standards. The replacement dwelling would be constructed in a similar position within the site to the existing dwelling, set back from the highway, forward of the adjacent dwelling (No. 322) but on a similar building line to the other dwellings further to the south on Station Road. It would occupy a slightly larger, generally rectangular, footprint than the existing dwelling but the plot is of sufficient size that the footprint would not be out of character or scale with either the application site or adjacent development.

The proposed dwelling is a dormer bungalow with an eaves height of 2.5 metres and a ridge height of 7 metres. An amended plan has been submitted to address inaccuracies on the side elevations and roof plan on the originally submitted plan. The design results in a low eaves level and steep roof plane but would include an almost full height projecting front gable feature which would produce a 2 storey effect feature within the design reflecting the scale of other dwellings within the street scene. Whilst a majority of development in the immediate vicinity of the site is at least a full 2 storeys in height, with shallow roof pitches, there is a wide single storey side extension to a neighbouring dwelling (No. 318) that produces a variation in the roofline within the vicinity and further variation in the roofline along Station Road is provided within the new residential development opposite the site to the west. On that development the dwellings, although being both 2 and 2.5 storeys in height, give the appearance of development of smaller scale due to their lower ground levels in relation to Station Road. In addition, there is a small development of bungalows approximately 40 metres to the north albeit not forming part of the Station Road frontage that provides further variation in scale. The proposed dwelling includes front and rear facing dormer windows, brick headers and a feature chimney that add interest to the design and these are also features found in surrounding development. Both policy BE1 of the adopted Local Plan and the adopted Supplementary Planning Guidance on New Residential Development promote

development that compliments the character of the area and its built form with regard to scale and design, including ridge height, orientation, eaves level, architectural features etc.

In this case, the proposed dwelling, whilst not two storeys in height and having a lower ridge line than the adjacent dwellings, would still have a relatively high ridge line with a similar orientation to other dwellings along Station Road and would include similar architectural features. As a result of the design and appearance of the existing dwelling, the design of the proposed dwelling, together with the existing variation within the rooflines within Station Road it is considered that the proposals would not result in a development that would be significantly out of character with the street scene such that the application warrants refusal on those grounds.

### Neighbours

The proposed dwelling would be sited in a similar position to the existing dwelling, but it would occupy a slightly larger footprint within the plot. The proposed dwelling would be set 3 metres forward of the adjacent dwelling, 322 Station Road, but would be to the north of that property, would have a low eaves line and would be set 1 metre off the common boundary such that the proposed dwelling would not adversely affect the amenities of the occupiers of the adjacent dwelling in terms of having an overbearing impact or unacceptable relationship. The proposed dwelling would also be sited such that the separation distance to the rear elevation of the terrace of properties to the north would be a minimum of 19 metres to main windows which exceeds the suggested distance of 14 metres contained within the Council's adopted Supplementary Planning Guidance on New Residential Development.

The location of the windows on the front and rear elevations would not result in any significant or additional overlooking or loss of privacy to neighbouring properties. The design also includes secondary bedroom windows in the side elevation gables within the roof space. The south facing window would be set back 3 metres from the front elevation and as a result would part face the blank side elevation of 322 Station Road and part overlook the front garden area only. The north facing window would have the potential to overlook the rear amenity areas of the properties to the north on Station Terrace and result in a loss of privacy to the occupiers of those dwellings. However, this issue could be overcome by the reasonable imposition of a condition to ensure that this secondary bedroom window would be obscurely glazed and fixed should the application be approved.

Overall it is considered that, subject to the aforementioned condition, the siting of the proposed dwelling and the location of windows would not result in any adverse effect on the privacy or amenities of the occupiers of neighbouring properties. At the time of writing this report no objections have been received from neighbours.

### Other Issues

As the proposal would not result in any additional residential units there is no requirement for contributions towards the provision or maintenance of public play and open space to meet the requirements of policy 19 of the adopted Core Strategy or policy REC3 of the adopted Local Plan.

Policy 24 of the adopted Core Strategy expects new residential development in Key Rural Centres to meet only current Building Regulations standards rather than a minimum of Code Level 3 of the Code for Sustainable Homes. As a result no additional sustainable design and technology measures are required in this case, however it should be noted that the current Building Regulations standards will require a more efficient dwelling than currently exists.

### Conclusion

The application site is within the settlement boundary of Bagworth. The siting, design and layout of the proposed development is considered to be acceptable and would provide

adequate separation distances to existing dwellings together with adequate private amenity space and off-street parking and turning within the site. The siting, design and layout of the proposed development would not have an adverse impact on the privacy or amenities of the occupiers of neighbouring properties or be detrimental to highway safety. The application is therefore recommended for approval subject to conditions.

**RECOMMENDATION :- Permit subject to no significant material observations being received prior to the expiry of the consultation period on 2 November 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 it would be within the settlement boundary of Bagworth, would have a satisfactory design and layout and would not be detrimental to the privacy or amenities of neighbouring properties or highway safety.

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (2009):- policies 7, 10 & 24

Hinckley & Bosworth Local Plan (2001):- policies BE1, RES5 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: Site Location Plan at 1:1250 scale; Block Plan at 1:500 scale received by the local planning authority on 24 September 2010 and Proposed Plans and Elevations at 1:50 and 1:100 scale respectively received by the local planning authority on 22 October 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 shall be deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.
- 5 The first floor bedroom window to be inserted in the north elevation (facing Station Terrace) shall be obscure glazed and fixed and retained as such 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 enable the local planning authority to fully assess the development in the light of the ground levels on the site and in the interests of visual amenity to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan
- 5 To ensure that the development is not detrimental to the privacy and amenity of the neighbouring property to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.

**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 6 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 Surface water should be discharged to a soakaway subject to satisfactorily permeable ground strata. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
- 6 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:-** Richard Wright                      Ext 5894

**Item:**                      12

**Reference:**              10/00729/FUL

**Applicant:**              Mr & Mrs G Davenport

**Location:**              3-4 Crown Cottages Newton Lane Odstone Nuneaton Leicestershire

**Proposal:**              EXTENSIONS AND ALTERATIONS TO DWELLING

**Target Date:**         15 November 2010

**Introduction:-**

Full planning permission is sought for side and rear extensions and alterations to No. 3-4 Crown Cottages, Newton Lane, Odstone. The application site is located outside

development limits and within a local landscape improvement site, as defined by Hinckley and Bosworth Local Plan (2001).

The proposed two storey side extension to create a double garage and utility at ground floor level and additional bedroom and en-suite at first floor would project from the west of the existing dwelling by 6.3 metres and run flush with the front and rear elevations of the existing dwelling, the ridge height would measure 7.05 metres which is 600 mm lower than the ridge of the existing dwelling. The side extension also incorporates two dormer windows on the front elevation and one dormer window on the rear elevation. The proposals include a small rear extension with balcony above, this projects only 1.3 metres from the rear and incorporates a gabled roof that sits flush with the existing rear elevation. One further dormer window is proposed on the rear of the existing property along with the insertion of roof lights both front and rear. Alteration to the side elevation include the creation of a new entrance at ground floor with patio style doors and Juliette balcony at first floor.

In addition, two new gates are proposed to the existing accesses, new fencing to separate the front and back garden to the east and a paved patio area is proposed to the rear.

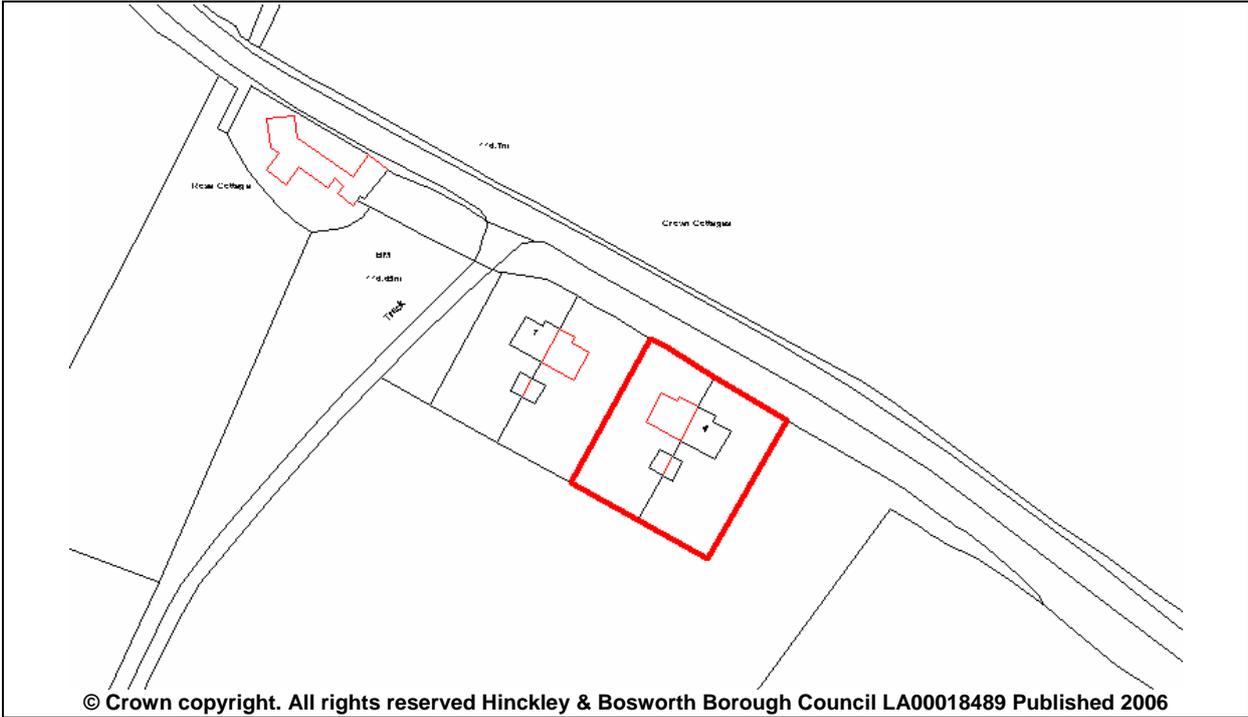
The proposed materials are plain clay roof tiles and painted render walls to match the existing and insertion of new pvcu windows and doors. The balcony balustrades will be constructed out of toughened glass and stainless steel.

The application is accompanied by a parking provisions statement which states that that are currently three car parking spaces and with the addition of the garage there would be the provision for a minimum of five car parking spaces.

Since submission the scheme has been amended in order to improve the design of the front elevation in the interests of design and impact upon the streetscene. The two dormer windows in the proposed two storey side extension and two rooflights in the existing front roof slope were reduced in overall size. Amended plans were received (1 October 2010) and re-consultation was undertaken.

**History:-**

95/00809/FUL                      Detached double garage                      Permitted                      04.12.95



## **Consultations:-**

Head of Community Services (Land Drainage) has no comments.

Leicestershire County Highway Authority request that off street car parking provision and set back distances are be considered.

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

Ramblers Associations  
Shackerstone Parish Council  
Neighbours.

Site notice displayed 27 September 2010 and neighbours notified.

The consultation period remains open at the time of writing and does not close until the 22 October 2010. Any further consultation response received before the closing date will be reported and appraised as a late item.

## **Policy:-**

### Central Government Guidance

Planning Policy Statement 7 (PPS7) 'Sustainable Development in Rural Areas' seeks to ensure that development in the countryside is sustainable, and that new building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled.

The Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all. It goes on to say that all development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.

### Local Development Framework Core Strategy

No relevant policy

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

Policy BE1: Design and Siting of Development 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 NE5: Outside Development Limits seeks to protect the countryside for its own sake.

Policy NE10: Local Landscape Improvement Site seeks that development permitted in these areas include comprehensive landscaping proposals.

Policy T5: Parking and Highways 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.

## Supplementary Planning Guidance/Documents

House Extensions Supplementary Planning Guidance provides further advice regarding scale, siting and design.

### **Appraisal:-**

The main considerations in the determination of this application relate to the principle of development, design, impact upon the streetscene, impact upon residential amenity, impact upon the countryside and other issues.

### Principle

The site is located outside development limits where new development is not usually favoured, however, there is scope for the reuse or extension of existing buildings. It is considered that the proposal represents an extension to an existing residential use and thus the principle of development in this case has already been established.

In addition, both PPS7 and Policy NE5 are generally supportive of development in the countryside providing that it does not result in any material harm to the existing character of the landscape.

### Design and Impact upon the streetscene

In accordance with the SPG on House Extensions, the ridge has been set down 0.6 metres from the existing dwelling's ridge and the extension does not exceed over half the width of the front elevation of the dwelling. Whilst the proposal is not set back one metre from the principal elevation, it is not considered that a terracing effect will occur in this case and the character of the streetscene will not be compromised. In terms of the other alterations and extensions to the existing dwelling, many would not be visible from the streetscene and would appear subservient in scale to the existing dwelling. In addition, the proposals intend to use external materials to match those used in the original dwelling.

Neighbouring dwellings comprise semi detached houses and are of a similar design. Neighbouring No 2 Crown Cottage has also undertaken extensions and alterations most noticeably in the form of a two storey side extension with the addition of dormer windows. As such, the presence of two storey side extensions is not an uncommon addition within the streetscene.

It is considered that the two storey side extension appears subservient and the scale and design would be in keeping with the scale and character of the existing dwelling, in accordance with Policy BE1 and the SPG.

### Impact upon Residential Amenity

In terms of residential amenity, the neighbouring dwelling most immediately affected would be No 2 Crown Cottages, located to the west of the application site. As the proposal intends to run flush with the front elevation of the existing dwelling and the proposal will be set from the common boundary by a distance of approximately 1.5 metres, it is considered that there would not be any significant material impacts in terms of loss of light, overshadowing, or overbearing impacts. In relation to the small rear extension with balcony above, there is a distance of approximately 16 metres between the proposal and both the rear and side boundaries. As such, it is not considered that there would be significant overlooking upon the neighbouring No.2 Crown Cottages. In addition, as the dormer windows proposed are front and rear facing, there will be no impacts on the privacy of the adjacent neighbouring dwelling. Given that there is no neighbour, the Juliette balcony at first floor in the side elevation would not result in any overlooking.

Given the siting and location of the application dwelling, there will not be any other neighbouring dwellings affected as a result of the proposals.

It is considered that the proposals do not adversely affect the occupiers of neighbouring properties and as such are in compliance with Policy BE1.

#### Impact upon the Countryside

It is considered that the proposals are well designed and sympathetic to the character of the existing dwelling and streetscene. Whilst located in the countryside, by virtue of the design and scale it is considered the proposals would not be detrimental to the character and appearance of the surrounding landscape and as such the proposals are considered acceptable in respect of Policy NE5.

#### Other Material Considerations

##### Parking and Highways

Leicestershire County Council Highways guidelines require that car parking provision for three spaces be made for a dwelling with four or more bedrooms, to ensure that adequate off street parking is provided. The proposal involves the creation of two car parking spaces within the proposed garage and there is adequate space for the provision of further spaces within the site. In relation to the proposed gates, they are both inward opening and are set back at a minimum of 5.9 metres from the highway to ensure that a vehicle can park clear of the highway.

As such, the proposals accord with Policy BE1 and Policy T5.

##### Landscaping

Whilst the site is defined as a local landscape improvement site, the area is characterised by mature hedgerows and there is existing vegetation screening from the highway. As such it is not considered necessary to ensure additional landscaping on the site in accordance with Policy NE10.

#### Conclusion

It is considered that the principle of development is acceptable. By reason of design and scale it is considered that there are no detrimental effects upon the character and appearance of the existing dwelling or streetscene and there are no material impacts upon residential amenity or surrounding countryside. The proposals are considered to be in accordance with both local and national policy. Accordingly, it is recommended that planning permission be granted, subject to conditions.

**RECOMMENDATION :- Permit subject to no significant material objections being received prior to the expiry of the consultation period on 22 October 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: resultant of the design, scale and location of the proposal there are considered no material impacts on either visual or residential amenity or on the character of the street scene and surrounding landscape, therefore the proposals are considered acceptable.

Hinckley & Bosworth Borough Council Local Plan (2001):- BE1, NE5, NE10, T5.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development shall be carried out only in accordance with the details and specifications included in the submitted application, as amended by the revised drawings; 4108-16(C); 4108-11(C); 4108-15(D) and 4108-14(C) received by the Local Planning Authority 1 October 2010.
- 3 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.
- 4 Two car parking spaces shall be kept and maintained within the curtilage of the dwelling and shall thereafter remain permanently remain available for car parking.

**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 Local Plan.
- 4 To ensure that adequate off street parking provision is provided in the interests of highway safety in accordance with Policy T5 of the 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 6 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:-** Ebony Mattley Ext 5691

**PLANNING COMMITTEE – 2 NOVEMBER 2010**

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

**RE: BARWELL CONSERVATION AREA STATEMENTS & MANAGEMENT PLANS**

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**1. PURPOSE OF REPORT**

- 1.1 To seek Members' approval to adopt the Conservation Area Statements and Management Plans for the two conservation areas in Barwell.

**2. RECOMMENDATION**

That Members adopt the Conservation Area Statements and Management Plans for Barwell as Planning Guidance.

**3. BACKGROUND TO THE REPORT**

- 3.1 The two conservation areas in Barwell were declared in July 2001. Conservation Area leaflets were produced at that time which set out the extent of the Conservation Areas, and gave brief information about the impact of designation on property owners in the area. The information provided in the leaflets is similar to that provided for all Conservation Areas in the Borough.
- 3.2 As reported to the Planning Committee on 2<sup>nd</sup> February 2007, it is intended to review all Conservation Areas in the Borough and issue a Conservation Area Statement and Management Plan for each area. The statement will assess the significance of the designated area and analyse how that significance is vulnerable to change. Its aim is to preserve and enhance the character of the area and to provide a basis for making sustainable decisions about its future through the development of management proposals. The documents provide a description of the historical development of the settlement, set out the important features of the conservation area which should be protected and indicate the planning guidance and policies which apply to new development in the area.
- 3.3 The benefits of a comprehensive appraisal of a conservation area are that it will provide a sound basis for development control decisions, for protecting our local heritage, for developing initiatives to improve the area and as an educational and informative document for the local community.
- 3.4 The Management Plans for the conservation areas will take the form of a mid to long term strategy for preserving and enhancing the conservation area. It will address the issues and make recommendations for action arising from the statement and identify any further detailed work needed for their implementation. It will also set out specific enhancement schemes for the public realm and aim to secure the repair of important heritage features and buildings in the area. The plan will also include a photographic survey, which

highlights the strengths and weaknesses of the conservation areas and will be used as a mechanism for monitoring future change in the designated area.

- 3.5 The Conservation Statements and Management Plans for Barwell have recently been completed by officers of the Council. A public meeting was held at the George Ward Centre in Barwell which were very well attended by local residents, Borough and Parish Councillors. The documents were also made available on the Council's Web Site and a separate presentation was given to the Barwell Business Association.

#### 4.0 **FINANCIAL IMPLICATIONS (DMe)**

- 4.1 There are none arising directly from this report. If any costs do arise from preparation and adaption of the statement and plan these will be met from existing Environmental Improvement Budget.

#### 5.0 **LEGAL IMPLICATIONS (MR)**

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

#### 6.0 **CORPORATE PLAN IMPLICATIONS**

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

#### 7.0 **CONSULTATION**

- 7.1 The public exhibition was held at the George Ward Centre on 21<sup>st</sup> September. The display included the study findings and future management recommendations illustrated by photographs, drawings and maps.

- 7.2 The exhibition generated a lot of public interest. Over 65 residents attended all of whom fully supported the conservation proposals.

- 7.3 The displays also gave the opportunity to provide additional information about the purpose of Conservation Area designation, the impact of the additional controls over land and property, and guidance regarding the type of development that is acceptable.

- 7.4 The written responses of the public together with officer responses are included in Appendix A. Applicable comments were incorporated into the revised documents. Any further responses received will be reported to Committee as a late item.

#### 8.0. **RISK IMPLICATIONS**

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

- 8.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this project have been identified, assessed and that controls are in place to manage them effectively.
- 8.3 The ability to fund the improvements identified in the Management Plan depends on adequate Council funding being available which in the current economic climate is unlikely. This will have an impact on residents' aspirations for the quality of the environment in the conservation area.
- 8.4 The key risks of not endorsing and implementing the Conservation Area Statement and Management Plan, are not meeting performance targets and the Council not being recognised for the good achievements of its Conservation Service and not protecting our local heritage.

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

- 9.1 The new Conservation Area Statements will further protect the Borough's Heritage. (chapter 5 of the Community Plan).
- 9.2 The village of Barwell is in the urban area of the Borough and the documents have no implications for the rural areas. The documents concerning this village are only relevant to the Parish of Barwell and will help the parish council and development control officers when commenting on planning applications.

## 10.0 **CORPORATE IMPLICATIONS**

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

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

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

Contact Officer: Barry Whirrity, ext 5619

Appendix A  
Summary of Consultation Responses

Barwell Conservation Exhibition

A total of 18 sheets were returned.

The following issues were raised:

1. The factory owners should be made to clean the frontages of the factories. *The Borough Council's street cleaning will be informed. The Planning Enforcement Section has very limited control over untidy frontages unless it becomes a major issue.*
2. More dog bins should be installed and people should be fined for dropping litter. *The Borough Council's street cleaning section will be informed.*
3. Wheelie bins should not be left in the front of houses all week. *The Borough Council's street cleaning section will be informed.*
4. Barwell's jitties should be tidied, particularly Barwell Lane which is full of empty cans, dog mess and bottles. Mothers are being prevented from using the jitties to take children to school because of their poor condition. *The Borough Council's street cleaning section will be informed.*
5. Gates should be erected across Barwell Lane to prevent it being used as a rat run by vehicles. *Leicestershire County Council Highways Department will be informed.*
6. Shop fronts should be improved. *The INSPIRE programme is a grant scheme of the County Council which is available to support shop front improvements. This will be promoted at the new Barwell Business Forum.*
7. Council improvement grants should be given to building owners to give local residents a village to be proud of. *The Borough Council's Environmental Improvement Budget concentrates on funding schemes identified in the Conservation Area Management Plans. Small grants can sometimes be given towards replacing inappropriate boundary treatments with traditional materials such as brickwork, railings, and the reinstatement of chimney stacks and pots.*
8. The High Street and Top Town should be made into a 10 miles an hour speed restriction zone. *The County Highways Department will be informed about the concern expressed about vehicle speeds in the village centre.*

9. Heritage lamp posts should be installed on East Green. *The support of residents to install heritage lamp posts is welcomed. However, this is restricted by the amount of Council and Parish funding available.*
10. Owners should be encouraged to develop vacant sites. *The Authority has no powers to require owners to develop sites, also officer time and Council funds are a limited resource which has to stretch across all areas in the Borough.*
11. Plaques should be erected to advise residents that they are in a Conservation Area. *A programme to erect plaques which identify the designated areas has commenced, and Barwell's plaques will be erected in the next few years should Council funding permit.*
12. One resident felt the Management Plan was overly critical on some aspects. Whilst conservation is important, it should be balanced against helping to attract new businesses and residents to the area as well as maintaining and restoring where appropriate. *The Management Plan identifies both the strengths and weaknesses of the Conservation areas. In particular, it focuses on those aspects which tend to downgrade the conservation area putting forward proposals for improvement. It is considered that in the long run, conservation areas which respect the traditional character have a better chance in attracting new businesses and residential development.*
13. All residents attending the exhibition gave enthusiastic support to the proposals in the Management Plan and Conservation Area Statement.

**PLANNING COMMITTEE – 2 NOVEMBER 2010**

**REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)**  
**RE: APPEALS LODGED AND DETERMINED**

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1. **PURPOSE OF REPORT**

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

2. **RECOMMENDATION**

2.1 That the report be noted.

3. **BACKGROUND TO THE REPORT**

3.1 Appeals Lodged

3.1.1 Appeal by Mr Nigel Hainsworth against the refusal of planning permission for the erection of 200 residential units with associated landscaping, access and public open space (10/00401/FUL) at Land bound by Mill Lane, Thurlaston Lane and Clickers Way, Earl Shilton (Public Inquiry).

3.1.2 Appeal by Morris Homes – East Ltd. against the refusal of outline planning permission for residential development (10/00408/OUT) at Land off Hinckley Road, Stoke Golding (Public Inquiry).

3.2 Appeals Determined

3.2.1 Appeal by Mr. E. E. Thompson against the refusal of full planning permission for the erection of one dwelling at land adjacent to 30 Main Road, Bilstone (09/00713/FUL).

3.2.2 The inspector considered the main issues to be the effect of the proposal on the character of the surrounding area in Main Road and whether it would be a sustainable form of development.

3.2.3 After visiting the site, the inspector saw that the proposed dwelling would be seen in a prominent location close to open fields upon entrance to the hamlet from the south.

3.2.4 The appeal site falls within the side garden of a recently restored property and was considered by the inspector to represent an important open aspect to the setting of No. 30.

3.2.5 In response to a letter sent by Barton Building Plans received by the PI on 10/09/10, with regards to revisions made in PPS3, it was noted in the report by the inspector that revisions to this national planning guidance now excludes residential gardens from being classified as previously developed

land. However, this had little bearing on his decision to dismiss the appeal because 'the site has an ordinary frontage with the highway'.

3.2.6 The basis of his decision was instead on the appearance of a more modern detached dwelling considered out of keeping with the horizontal appearance of the other cottages along Main Road. Therefore, in the opinion of the inspector, the proposal would conflict with the aims of the Hinckley & Bosworth Local Plan policies BE1 and NE5, which requires new development to complement or enhance the character of the surrounding area.

3.2.7 With regard to the issue of whether it would be a sustainable form of development, the inspector considered the proposal goes against national guidance on sustainable development (PPS1, PPS3 and PPS7) that principally seeks to strictly control the building of new dwellings in the countryside on sustainability grounds.

3.2.8 Within the report reference is made to Local Plan policies RES5 and NE5 which seek to restrict new housing developments within urban areas and larger rural settlements. These policies are in place to reduce the need to travel, hence, limiting the growth in length and number of motorized journeys.

3.2.9 There was little evidence of community facilities close by. The inspector only noted a primary school located within the nearby village of Congerstone and consequently considered there would be little alternative to the use of private vehicles for travel and access to services from the proposed dwelling. Based on the summarised reasons above the inspector considered the site to be an unsustainable location for new development and contrary to the sustainability objectives of national and local policy.

### 3.2.10 **Inspectors Decision : Appeal Dismissed (delegated decision)**

3.3.1 Appeal by Mr. G. Dulon against the refusal of full planning permission for the erection of pillars over one metre high at the front of 1 Woodland Close, Markfield (10/00256/FUL).

3.3.2 The inspector considered the main issue to be the effect of the pillars on the safety of pedestrians in Woodland Close.

3.3.4 In making his decision the inspector considered the adequacy of visibility for road users because this is a key criterion in the assessment of new development under BE1 of the Local Plan. This was cross-referenced with Manual for Streets (MfS) which stipulates the absence of wide visibility splays at private driveways will encourage drivers to emerge more cautiously. It was the validity of the latter assertion that was duly considered.

3.3.5 Woodland Close is a small cul-de-sac with light and slow vehicular movement. The width of the footway was measured to be 1.5 metres which was highlighted by the inspector to be narrower than the unobstructed 2 metres that MfS indicates as minimum, but acceptable under most circumstances, if there are layout constraints.

3.3.6 Similar to Highway comments, the inspector agreed reducing the height of the pillars to 1 metre under permitted development is not ideal for providing

adequate visibility for those emerging from the drive of either 1 or 2 Woodland Close or from the jitty, but would be better in terms of allowing visibility than the greater heights to which the pillars have been built. In addition it was agreed that there would be potential for the vehicle to come into contact with persons on the adjoining footway in particular raising concern over the more vulnerable members of society.

3.3.7 Notwithstanding drivers care, the continued presence of these pillars as built have the potential to endanger the safety of pedestrians in Woodland Close, contrary to the objectives of saved Local Plan Policy BE1 (g).

### 3.3.8 **Inspectors Decision : Appeal Dismissed (delegated decision)**

3.4.1 Appeal by Mr. Jogi Singh against the refusal of full planning permission for the change of use from retail shop (Class A1) to hot food takeaway (Class A5), and retention of external extractor flue (retrospective) at The Pantry, 102 Rugby Road, Hinckley (10/00241/FUL).

3.4.2 There were two main issues in this appeal, the first is the effect of the proposed A5 use on the amenity of neighboring residents and the second is the effect of the external flue on the visual amenity of adjoining residents and the street scene in Rugby Road.

3.4.3 In terms of the effect of proposed use on residential amenity, the inspector had regard to the fact that the appeal site did not fall within any designated Local Centre. Although the premise is situated in a mixed use area, it was noted that there is a high concentration of residential properties nearby.

3.4.4 The intended opening hours was thought to create potential for the disturbance of neighbours despite a relatively early closing time. An adjoining semi-detached property at No. 100 was specifically mentioned and the closing time of 20:00 was still considered likely to result in maneuvering of vehicles, the opening and closing of vehicle doors and the regular passage and congregation of pedestrians outside the premises such as to disturb the amenity of those living immediately next door.

3.4.5 In addition, representations received from the occupants of No. 100 were duly considered with particular reference made to the possibility of noise emanating from the cooking area adjoining the party wall between the two properties, and from the extractor fan which would be associated with the fume extraction system.

3.4.6 On the whole the combined effect of these internal and external activities resulting from take away activities would be harmful to the living conditions of those neighbors. The change of use in this case was not considered to concur with Local Plan Policy BE1 which requires new development not to adversely affect the occupiers of neighboring properties and fails to satisfy the Shopping and Shop Front Supplementary Planning Document (SPD).

3.4.7 The visual impact of the flue was considered to be minimal in the street scene due to its location at the rear of the building and by frontage trees down a commercial rather than a residential street. The inspector came to the

conclusion the flue is visible from the street scene, but does not form a prominent feature.

3.4.8 In terms of being harmful to the visual amenity of neighbouring residents the flue is visible from the rear window of 100 Rugby Road, nonetheless, the flue falls beyond tall vegetation and is positioned at an oblique angle for anyone looking out of a rear window.

3.4.9 Despite the conclusion on the flue, the inspector was satisfied the conclusion on the first issue regarding the effect of proposed use on residential amenity justifies withholding the grant of planning permission.

#### 3.4.10 **Inspectors Decision : Appeal Dismissed (committee decision)**

3.5.1 Appeal by Mr. S. Goodman against the refusal of outline planning permission to rebuild a dwelling on the site of the old farmhouse at Craigmore Farm, Newbold Verdon (09/00841/OUT).

3.5.2 The main issue examined by the inspector was whether or not the proposal would harm the countryside, scrutinising the development against the objectives of national and local planning policies. The reason for examining this issue is because of its location in countryside outside any development boundary.

3.5.3 In terms of establishing whether the development constitutes a replacement dwelling, it was contested by the appellant that the proposal is not new development in the countryside. However, the original house was demolished in the 1970s and abandonment since then with no dwelling on site now for over 30 years has effectively ended its lawful use. The purchase of fields on both sides and re-establishing a section of the former farm was not deemed by the inspector to be sufficient to justify the building of a replacement farmhouse.

3.5.4 For new occupational dwellings in the countryside to be scrutinised thoroughly both a financial and functional test needs to be satisfied as stipulated in PPS7. The appellant argued that there is a need for permanent supervision for security and welfare purposes. PPS7 says that the protection of livestock by itself is not sufficient to justify a new agricultural dwelling. It was therefore dismissed and the inspector reiterated that this is not sufficient to demonstrate a clear essential functional need for a worker to be on site at all times.

3.5.5 Furthermore, no evidence was submitted to demonstrate the financial viability of the enterprise to support a full time worker both at the present time and in the future. In the opinion of the inspector, no compelling argument was put forward by the appellant clearly demonstrating the proposal meets the required test contrary to the aims of PPS7 and the criteria for allowing permanent dwellings in Policy NE5 of the Local Plan.

3.5.6 Due consideration was given to whether the development is sustainable. Although a bus stop is within 0.8 kilometres to the site there was little evidence of community facilities close by. A concerned inspector made the statement that a proposed dwelling in this location would increase the need of

its occupiers to travel by private vehicle to access services and facilities contrary to the objectives of national and local policies on sustainability.

3.5.7 Other matters were dismissed such as when the appellant referred to other recent development carried out in the area. However, the nature and siting of those proposals were considered to be sufficiently different and within the village of Newbold Heath and therefore the appeal proposal should be determined on its own merits. Neighbour and Parish Council support for the proposal is not a valid justification for allowing the development when harm can be caused to the countryside.

3.5.8 Additional supporting evidence was submitted through a planning obligation restricting the size and giving a temporary nature to the accommodation until the business became more profitable, but the inspector was not persuaded that this complied with the requirements for a temporary agricultural dwelling and the proposal put forward fails to meet the test as laid out under paragraph 12 of Annex A to PPS7.

### 3.5.9 **Inspectors Decision : Appeal Dismissed (delegated decision)**

3.6.1 Appeal by Mr. R. Neep against the refusal of full planning permission for change of use of redundant agricultural buildings to B1/B8 at No. 1 Forest View Farm, Peckleton Lane, Desford (10/00149/FUL).

3.6.2 In his report the inspector noted that the site is accessed by a single track road with a junction onto Peckleton Lane, particularly noting junction improvement to a scheme that received planning permission. The site access is on the outside of a curve in the public road. The wider section of the road and junctions including the two site accesses from the Caterpillar site were noted and included as part of the consideration.

3.6.3 The main issue under inspection was the effect of the proposed use on the safety of road users on Peckleton Lane. This formed the basis of refusal whereby the Council's objection drew from the representations of the Highways Authority (HA) focus on traffic generation, road safety conditions, and highway design and safety standards.

3.6.4 Peckleton Lane was described by the HA as an unrestricted and relatively busy rural road and this was questioned by the inspector. Based on site observations and traffic data for this road, the inspector concurred that whilst there is generally a high number of turning movements onto and off the road, its recorded traffic operation is well under its capacity and therefore cannot be categorized as 'busy'. It was not considered the additional traffic resulting from change of use would compromise the capacity of Peckleton Lane.

3.6.5 Although it was generally accepted by the inspector there will be HGVs, particularly from the Caterpillar site, it was noted in the inspectors report that this would be spread across three accesses in which two of these are on the A47 side of the appeal site. When all circumstances are considered as a whole the inspector is satisfied there was no justifiable objection based on the grounds of traffic generation.

- 3.6.6 In terms of visibility at the junction of the farm access road with Peckleton Lane, the inspector put added emphasis and weight to how the junction has been improved, making it easier to achieve appropriate visibility in both directions on highway land. Despite the land across the inside of the curve of the lane being in private ownership, sound arrangements to ensure forward visibility is maintained from any restrictions caused by growing vegetation was considered satisfactory.
- 3.6.7 Despite the inspector accepting the HA view over the absence of street lighting and fast moving traffic not providing ideal conditions for visibility, he did point out that most traffic emerging from or entering the appeal site would do so during daylight.
- 3.6.8 With regards to the records of personal injury accidents (PIA) in Peckleton Lane, no PIA has been recorded near the appeal site access and the inspector does not generally find the PIA record to be a compelling reason to dismiss the appeal.
- 3.6.9 Reference was made to the appellant's highway consultants who suggested possible appropriate signage to increase approaching driver's awareness of the appeal site access. It was concluded the appeal development would not demonstrably endanger the safety of road users on Peckleton Lane.
- 3.6.10 Several other material matters relating to this application were considered. The inspector concurs that the proposed change of use should be satisfactory and would not conflict with countryside policy.
- 3.6.11 The inspector hastily dismissed references to other appeals which were found not to be so similar and also added allowing this appeal would not establish a precedent for similar future proposals, which would still have to be assessed against relevant development plan policy, including the effect of any further intensification on highway safety.
- 3.6.12 In terms of ecological impact, the inspector is in agreement with the view taken by the council and informed by the ecological survey that the appeal proposal is unlikely to have an adverse impact on any protected species and a watching brief should be kept.
- 3.6.13 The inspector has considered the conditions suggesting it would be appropriate for further discussions between the council and appellant regarding the external elevational materials. Other conditions include landscape planting, appropriate parking provision and restricting the uses permitted to Use Classes B1(c) and B8.
- 3.6.14 Further conditions suggested by the Highways Authority were considered and dismissed by the inspector as unnecessary but stated there is need for further signing of the access as already referred to in this report.
- 3.6.15 **Inspectors Decision: Appeal Allowed (delegated decision)**

4. **FINANCIAL IMPLICATIONS (AB)**

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

5. **LEGAL IMPLICATIONS (MR)**

5.1 No comments.

6. **CORPORATE PLAN IMPLICATIONS**

6.1 This document contributes to Strategic Aim 3 of the Corporate Plan.  
• Safer and Healthier Borough.

7. **CONSULTATION**

7.1 None

8. **RISK IMPLICATIONS**

8.1 None

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

9.1 None

10. **CORPORATE IMPLICATIONS**

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

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

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Background papers: Appeal Decisions

Contact Officer: Kevin Roeton ext 5919

**PLANNING COMMITTEE - 2 NOVEMBER 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: 22.10.10

**WR - WRITTEN REPRESENTATIONS**

**IH - INFORMAL HEARING**

**PI - PUBLIC INQUIRY**

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
		10/00408/OUT	PI	Morris Homes - East Ltd	Land Off Hinckley Road Stoke Golding	<i>Awaiting Start Date</i>	
10/00019/PP	TM	10/00401/FUL	PI	Persimmon Homes North Midlands Ltd	Land bound by Mill Lane Thurlaston Lane and Clickers Way Earl Shilton	<i>Start Date</i> Questionnaire Rule 6 Final comments Proof of Evidence (Due) Inquiry Date	<i>11.10.10</i> 25.10.10 22.11.10 13.12.10 18.01.11 8/9.02.11
10/00017/PP	LF	09/00818/FUL	WR	Arragon Properties	Land Adj to 1 Main Road Ratcliffe Culey	<i>Start Date</i> <i>Awaiting Decision</i>	19.08.10
10/00014/PP	SF	09/00798/FUL	PI	JS Bloor	Land East of Groby Cemetery Groby Road Ratby	<i>Start Date</i> <i>Awaiting Decision</i>	21.06.10
10/00011/PP	RW/NC	09/00915/OUT	IH	Mr John Knapp	26/28 Britannia Road Burbage	<i>Start Date</i> Hearing Date	<i>01.06.10</i> 26.10.10
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	<i>06.11.09</i> 18.12.09 09 12.03.10

**Decisions Received**

10/00009/PP	DK	09/00713/FUL	WR	Mr EE Thompson	Adj 30 Main Road Bilstone	<b>DISMISSED</b>	<b>27.09.10</b>
10/00018/FTPP	ES	10/00256/FUL	WR	Gary Duion	1 Woodland Close Markfield	<b>DISMISSED</b>	<b>07.10.10</b>
10/00016/PP	LF	10/00241/FUL	WR	Mr Jogi Singh	The Pantry 102 Rugby Road Hinckley	<b>DISMISSED</b>	<b>08.10.10</b>

10/00015/PP	RW	09/00841/OUT	WR	Mr Stephen Goodman	Land at Merrylees Road Newbold Heath Newbold Verdon	<b>DISMISSED</b>	<b>12.10.10</b>
10/00013/PP	RW/NC	10/00149/FUL	WR	Mr Roger Neep	Forest View Farm Peckleton Lane Desford	<b>ALLOWED</b>	<b>15.10.10</b>

**Rolling 1 April 2010 to 22 October 2010**

**Planning**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision		
					Allow	Spt	Dis	Allow	Spt	Dis
17	8	5	2	2	6	2	4	2	0	1

**Enforcement**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn