

Date: 22 December 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 **WEDNESDAY, 5 JANUARY 2011** 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.

Please note day and date.

Yours sincerely



Pat Pitt (Mrs)
Corporate Governance Officer

PLANNING COMMITTEE
5 JANUARY 2010
A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meetings held on 30 November 2010, attached marked 'P38', and 14 December 2010, to follow marked 'P39'.

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 'P40' (pages 1 – 120).

8. PLANNING FEES CONSULTATION

Report of the Deputy Chief Executive (Community Direction) attached marked 'P41' (pages 121 - 124).

RESOLVED

9. APPEALS LODGED AND DETERMINED

Report of the Deputy Chief Executive (Community Direction) attached marked 'P42' (pages 125 – 126).

- RESOLVED 10. APPEALS PROGRESS
Report of the Deputy Chief Executive (Community Direction) attached marked 'P43' (pages 127 – 129).
- RESOLVED 11. REQUEST FOR CLU, 15 CROWNHILL ROAD
Report to follow marked 'P44'.
- RESOLVED 12. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

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

PLEASE NOTE THAT THE MEETING MAY BE RECORDED.

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

PLANNING COMMITTEE

30 NOVEMBER 2010 AT 6.30 PM

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

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 K Nichols, Mr BE Sutton, Mr R Ward and Ms BM Witherford.

In accordance with Council Procedure Rule 4.4 Mr PR Batty and Mr PS Bessant also attended the meeting.

Officers in attendance: Mr R Crosthwaite, Mr B Cullen, Mrs S Fryer, Ms T Miller, Miss R Owen, Mr M Rice and Mr S Wood.

316 **APOLOGIES AND SUBSTITUTIONS**

Apologies were submitted on behalf of Mrs Aldridge and Mr O'Shea with Mr Cartwright substituting for Mr O'Shea in accordance with Council Procedure Rule 4.3.

317 **MINUTES (P30)**

It was highlighted that Mr Cartwright was recorded as having attended the meeting, but he had not been present. On the motion of Mr Bown, seconded by Mr Bannister, it was

RESOLVED – the minutes of the meeting held on 2 November 2010 be confirmed subject to the above amendment and signed by the Chairman.

318 **DECLARATIONS OF INTEREST**

Mr Boothby declared a personal and prejudicial interest in application 10/00827/FUL as a member of the applicant's family was known to him.

Mr Cartwright wished it to be recorded that application 10/00590/FUL had been discussed at Groby Parish Council but he had left the room and did not take part in the debate or decision.

Mrs Hall declared a non-prejudicial interest in report P33 as she had requested the item. She stated that she would not take part in discussion. Mr Inman also declared a non-prejudicial interest in this item.

Mr Joyce arrived at 6.37pm.

319 DECISIONS DELEGATED AT PREVIOUS MEETING

The Head of Planning reported on the following applications which had been delegated at the meeting on 2 November:

- (i) 10/00695/FUL – it was reported that the decision had been issued on 25 November 2010;
- (ii) 10/00453/FUL – it was reported that the decision had been issued on 10 November 2010;
- (iii) 10/005888/EXT – it was reported that the decision had been issued on 12 November 2010;
- (iv) 10/00708/FUL – it was reported that the decision had been issued on 10 November 2010;

320 LOCAL DEVELOPMENT FRAMEWORK: EARL SHILTON AND BARWELL AREA ACTION PLAN PREFERRED OPTIONS - CONSULTATION (P34)

Members were presented with the Preferred Option document for the Earl Shilton and Barwell Area Action Plan DPD and associated sustainability appraisal in advance of going out to consultation.

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

RESOLVED – the Preferred Options document for Earl Shilton and Barwell Area Action Plan DPD and associated Sustainability Appraisal be endorsed for the purpose of undertaking a six-week period of consultation from Friday, 7 January 2011 until Friday, 18 February 2011 inclusive.

321 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P31)

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) 10/00743/OUT – Outline application including access, layout and scale, for the erection of a mixed-use development comprising retail (A1-A3 uses), leisure (D2 uses) and offices (B1A uses), together with all associated infrastructure and plant, public realm, landscaping and servicing. Works to include the provision of a part undercroft / part surface public car parking area and a new bus station, Bus Station, Lancaster Road, Hinckley – The Tin Hat Regeneration Partnership LLP

It was noted that consideration of this application was being deferred to a special meeting of the committee on 14 December 2010.

- (b) 10/00727/TEMP – Erection of a log cabin for use as a temporary agricultural dwelling for the period of three years, Land at Cloverfield, Watery Lane, Sheepy Magna – Mr Lyons

It was reported that this application had been withdrawn

- (c) 10/00590/FUL – Creation of new access, formation of new ménage, replacement stable block and erection of garage for horse trailer box, Land at the rear of 34 Fern Crescent, Groby – Mr Michael Akins

Mr Bessant left the meeting at 7.05pm and returned at 7.12pm. Mr Bown left at 7.17pm. Mr Crooks left at 7.28pm and returned at 7.31pm.

Whilst most Members were in support of the officer's recommendation, it was felt that conditions should be added to prevent traffic using Lena Drive and to prevent vehicular access from Fern Crescent, and that the length of the access in condition 6 be amended to 15 metres.

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

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

- (d) 10/00793/FUL – Erection of a bungalow (revised scheme), 59 Butt Lane, Hinckley – Mr L Ward

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

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

Having declared a prejudicial interest in the following application, Mr Boothby left the meeting at 7.47pm.

- (e) 10/00827/FUL – Extensions and alterations to dwelling, 20 Hilary Crescent Groby – Mr Gary Hawkins

It was moved by Mr Cartwright that the application be refused as it was not in keeping with the character of the area. In the absence of a seconder, the motion was not put to the vote.

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

RESOLVED – subject to no significant additional objections being received before the end of the consultation period expiring on 3 December 2010, the Deputy Chief Executive (Community Direction) be granted delegated powers to issue planning permission subject to the conditions contained in the officer's report and late items.

Mr Boothby returned to the meeting at 8.08pm. Messrs Bessant, Gould and Inman left the meeting at 8.09pm.

- (f) 10/00640/OUT – Mixed use development comprising up to 68 dwellings and employment (use classes B1c and B2) (outline – access only), Dunlop Limited, Station Road, Bagworth – Johal and Kler Partnership

Mr Batty left the meeting at 8.10pm.

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

RESOLVED – the Deputy Chief Executive (Community Direction) be granted delegated powers to grant planning permission for the development subject to the conditions contained in the officer's report and late items 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, the provision and maintenance of public play and open space facilities. Failure to do so by 2 December 2010 might result in the application being refused.

- (g) 10/00665/ADV – Erection of non illuminated signage, Atkins Building, Lower Bond Street, Hinckley – Hinckley & Bosworth Borough Council

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

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

- (h) 10/00666/LBC – Erection of non illuminated signage, Atkins Building, Lower Bond Street, Hinckley – Hinckley & Bosworth Borough Council

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

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

Mr Gould returned at 8.14pm.

- (i) 10/00757/FUL – Conversion of farm buildings into dwelling and erection of two new dwellings, Yew Tree Farm, Occupation Road, Nailstone – Mr J Dawson

It was moved by Mr Sutton, seconded by Ms Witherford and

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

- (j) 10/00760/COU – Change of use from recreational fields to mixed use to recreational fields and dog training classes, Jubilee Playing Fields, Altar Stones Lane, Markfield – Mr Steven Havers

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

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

- (k) 10/00783/FUL – Extension to production building and alterations to aggregate bay area (retrospective), FP McCann, Brascote Lane, Cadeby – FP McCann

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

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

At this juncture, Mr Nichols declared a personal, non-prejudicial interest in the following application.

Mr Inman returned at 8.20pm.

- (l) 10/00816/FUL – Agricultural workers dwelling with associated garage and access, Land adjacent New House Farm, Stapleton Lane, Dadlington – Mr Martin Morris

Attention was drawn to the amended recommendation in the late items that the application be refused. On the motion of Mr Nichols, seconded by Mr Crooks it was

RESOLVED – the application be refused for the reasons contained in the late items.

322 PLANNING FOR SCHOOLS DEVELOPMENT: CONSULTATION (P32)

Members were advised of the consultation response on proposed changes to the General Permitted Development Order in relation to schools development to complement the Government's 'free schools' policy.

Mr Boothby left the meeting at 8.31pm.

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

RESOLVED – the response be agreed.

323 CERTIFICATES OF LAWFUL USE AND DELEGATION SCHEME (P33)

Members were presented with a report which proposed a course of action in relation to a specific application for a certificate of lawful proposed use and also highlighted an anomaly in the Constitution with regard to the scheme of delegation.

It was requested that in future these delegated decisions be reported to the Ward Member.

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

RESOLVED –

- (i) the Deputy Chief Executive (Community Direction) be authorised to grant a certificate of lawful proposed use in relation to the particular application under consideration in the report;
- (ii) the Council be RECOMMENDED to amend the Constitution to authorise the Deputy Chief Executive (Community Direction) to consider and grant or refuse applications for certificates of lawful existing or proposed use in all cases notwithstanding that there are more than five objections;
- (iii) that delegated decisions taken by the Deputy Chief Executive (Community Direction) with regard to applications for certificates of lawful use be reported to the local Ward Member.

324 APPEALS LODGED AND DETERMINED (P35)

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

RESOLVED – the report be noted.

325 APPEALS – PROGRESS (P36)

A schedule was submitted indicating the stages that various appeals against planning decisions had reached. It was reported that the enquiry in relation to Britannia Road, Burbage was scheduled for 1 March 2011.

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

RESOLVED – the report be noted.

(The meeting closed at 8.45pm)

REPORT P40

PLANNING COMMITTEE

5 January 2011

**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

PLANNING COMMITTEE AGENDA - 5 January 2011 - NUMERIC INDEX

REF. NO.	APPLICANT	SITE	ITEM	PAGE
10/00770/FUL	Mr Darren Price	Land East Of Heath Road Bagworth	01	2
10/00800/FUL	Mr Ian Lawrence	Mira Ltd Watling Street Lindley Higham On The Hill	02	7
10/00811/FUL	Mr Stublej	Land North East Of Reservoir Road Thornton	03	22
10/00818/CONDI T	Woodlands Nurseries House	Woodlands Nurseries House Ashby Road Stapleton	04	29
10/00822/FUL	Mr S Parkinson	134 Main Road Sheepy Magna Atherstone	05	35
10/00823/OUT	Ms J Allen	42 Britannia Road Burbage Hinckley	06	46
10/00847/FUL	Mr Richard Anderson	Flude House Rugby Road Hinckley	07	55
10/00908/FUL	Mr J Singh	102 Rugby Road Hinckley	08	98
10/00920/FUL	Mr Matthew Gilliver	Land Congerstone Lane Barton In The Beans	09	105
10/00969/OUT	Brenmar Developments (Hinckley) Ltd	Land Off Eastwoods Road Hinckley	10	113

Item: 01
Reference: 10/00770/FUL
Applicant: Mr Darren Price
Location: Land East Of Heath Road Bagworth
Proposal: ERECTION OF AGRICULTURAL BUILDING
Target Date: 23 December 2010

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, following a request by a local member.

Application Proposal

This application seeks full planning permission for the erection of a new agricultural building on a roughly rectangular piece of land to the east of Heath Road, Bagworth. The proposed building is to be located close to the northern boundary of the application site and close to the existing field access off Heath Road to the west. The proposed building measures approximately 18 metres x 12 metres (216 square metres of floor space) with a ridge height of approximately 5.8 metres and eaves height of 3.8 metres. An amended block plan has been submitted to move the building further from the highway boundary and provide a set back for the field gate. An amended plan has been submitted that proposes that the building is to be constructed of steel frames with external walls of low level concrete blockwork with Yorkshire boarding over, green steel sheet roof panels, a feed trough to the west elevation and double steel access doors to the south elevation.

The Site and Surrounding Area

The application site is located in the countryside to the south west of Bagworth. The site extends to approximately 4.04 hectares and slopes from north to south. It consists of two fields divided by a post and wire fence and laid to grass. There is an existing lean-to type building constructed of timber frame and profiled cladding sheets located in the north west corner of the site. This structure has open sides to the east and south elevations and appears to be unused at the present time. The building measures approximately 11 metres in length, 6 metres in depth and 3 metres in height. The site is bounded by a mature hedgerow to the west fronting Heath Road and by Heath Woods to the north and east. To the south of the site lies a small lake and wetland habitat. Access is via two existing field gates off Heath Road.

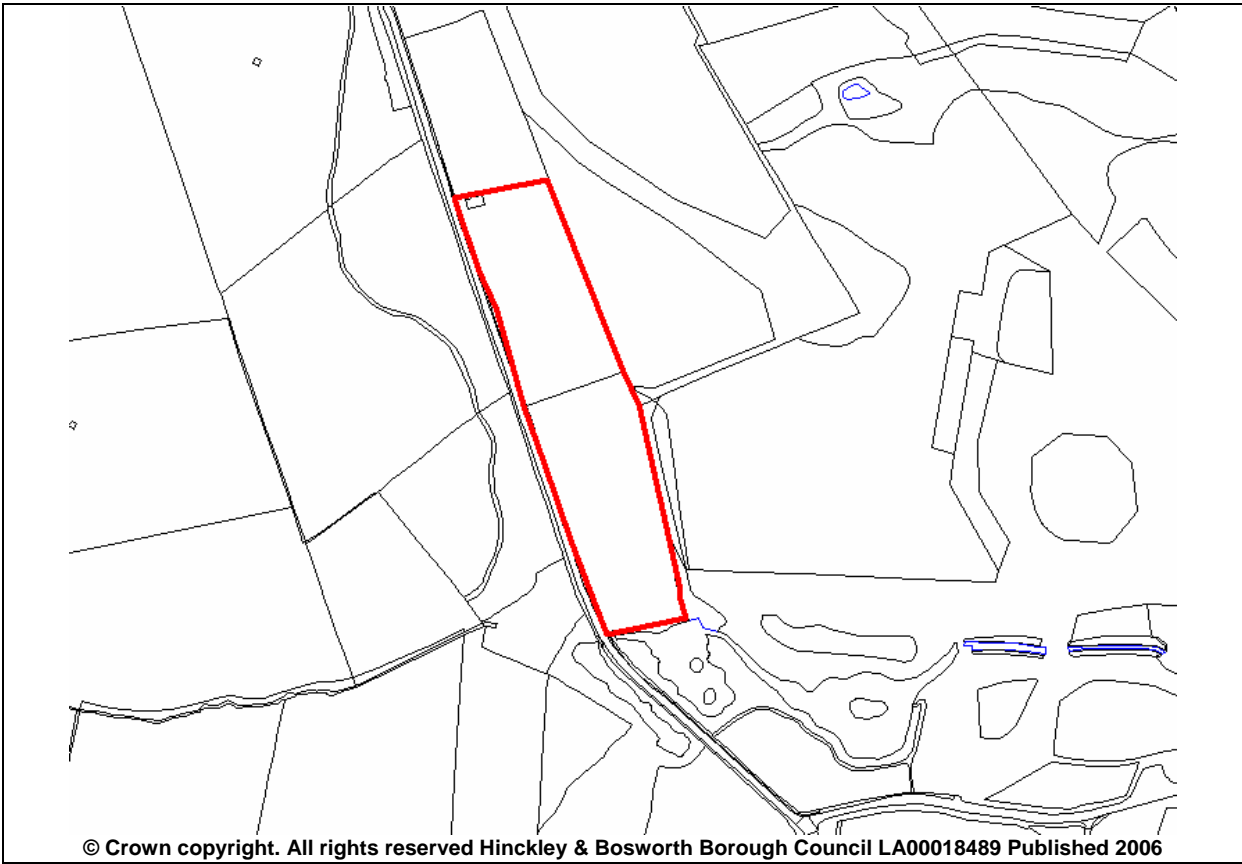
Technical Documents submitted with Application

A Design Statement has been submitted to support the application. The supporting information suggests that the building is required for winter shelter for 30 young beasts in 75% of the building with the remaining 25% to be used for the storage of feed for the animals. It also advises that Mr Price keeps cattle on rented ground where there is no building and therefore this building is required for that purpose. It further states that the field is now owned by Mr Price and was previously owned by a cattle dealer who kept cattle on the land prior to being taken to market. In addition, it suggests that the building will be

screened by the hedges around the field which are reasonably high. Following discussions with the agent, additional details were requested in respect of the agricultural justification for the building. A further letter has now been submitted by the agent that states that the applicant has since sold the beasts previously referred to but that he intends to purchase others in the future.

History:-

10/00650/FUL	Erection of Agricultural Building	Withdrawn	15.09.10
10/00448/GDO	Erection of Barn for the Purpose of Storing Hay	Planning Permission required	23.07.10
10/00308/GDO	Erection of an Agricultural Building	Planning Permission required	20.05.10



Consultations:-

No objection has been received from:-

Environment Agency
Head of Community Services (Pollution).

No objection subject to conditions has been received from the Director of Environment and Transport (Highways).

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

National Forest Company
Bagworth & Thornton Parish Council
Site notice.

Policy:-

Central Government Guidance

Planning Policy Statement 7: Sustainable Development in Rural Areas' in paragraph 1 states that new building development in the open countryside away from existing settlements should be strictly controlled to protect the countryside for the sake of its character, beauty, diversity, heritage and wildlife so it may be enjoyed by all. All development in rural areas should be well designed and inclusive, in keeping with its location, and sensitive to the character of the countryside. Paragraph 15 states that planning policies should provide a positive framework for facilitating sustainable development that supports traditional land based activities that require a countryside location but continue to ensure that the quality and character of the wider countryside is protected. Paragraph 16 states that when determining planning applications for development in the countryside, local planning authorities should support development that delivers diverse and sustainable farming enterprises and other countryside based enterprises and activities which contribute to rural economies whilst also conserving sites of landscape value.

Local Policy

Local Development Framework Core Strategy 2009

There are no relevant policies within the Core Strategy.

Hinckley and Bosworth Local Plan 2001

The site is in the countryside as defined on the proposals map of the adopted Local Plan.

Policy BE1: 'Design and Siting of Development' 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 with regard to scale, layout, design and materials; has regard to the safety and security of property; incorporates landscaping if necessary; ensures that there is adequate highway visibility for road users and adequate provision of parking and manoeuvring facilities.

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

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

Policy T5: 'Highway Design and Vehicle Parking Standards' refers to the application of appropriate standards for highway design and parking provision unless otherwise justified.

Other Documents

Leicestershire County Council document: 'Highways, transportation and development' provides further guidance to developers in respect of all highway issues and on the policies and objectives of the Highway Authority.

Supplementary Planning Guidance on the 'Design of Farm Buildings' advises that the position of a new farm building is usually dependant on its function and the space available. There are other factors that should be taken into account, such as the visual prominence of the building in the wider landscape. The function of the building will influence its size, scale, type and design. The long term agricultural requirements of the building should also be considered.

Appraisal:-

The main considerations with regards to this application are the principle of development and impact on the countryside, design and layout, highway safety and other issues.

Principle of Development and Impact on the Countryside

Whilst both central government guidance in Planning Policy Statement 7 and policy NE5 of the adopted Local Plan seek to protect the character and appearance of the countryside for its own sake and from unnecessary development, it is recognised that certain forms of development, including those in connection with agricultural land based activities which require a countryside location, are generally acceptable in principle.

In this case, the planning history of the site includes two previously determined applications for a similar sized building for the storage of hay made under the prior notification procedures of Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) Order 1995. In determining these applications, consideration was given to the use of the land at the time for the grazing of the applicant's horses, rather than for any agricultural operation or activity and the lack of any substantive evidence to suggest that the building would be used for agricultural purposes or was reasonably necessary for such purposes. In both cases it was concluded that the building could not be classified as permitted development under the Order and planning permission was required for the proposed building as it did not relate to an agricultural operation and was not reasonably necessary for the purposes of agriculture at the time.

Following those applications, and in view of the land holding being less than 5 hectares, this planning application now seeks approval for an agricultural building for the purpose of winter shelter for 30 beasts and for the storage of hay for feed for those beasts. The application was initially supported by reference to the cattle being kept on rented land elsewhere and it being the intention of the applicant to relocate the cattle onto the application site when a building can be constructed to provide them with shelter. In view of the recent planning history of the site, further details were requested from the agent to establish the nature of the agricultural activity being proposed and details of the livestock owned by the applicant. A further letter has now been received from the agent that confirms that the applicant has sold the beasts referred to since the application was submitted.

Notwithstanding the previous applications relating to the site, this application must be determined on its own merits and on the basis of the information submitted. Whilst the erection of an agricultural building on the site may be generally acceptable in principle, in this case and on the information submitted, it is considered that the applicant has failed to demonstrate that there is any agricultural justification for the proposed building for the stated purpose that would outweigh national and local plan policies that seek to protect the

character and appearance of the countryside for its own sake and from unnecessary development. As a result, the proposed development is considered to be contrary to Planning Policy Statement 7 and policy NE5 of the adopted Local Plan.

Design and Layout

The proposed building is located close to the northern boundary of the site and following submission of an amended plan is set back from Heath Road to the west by approximately 20 metres to allow easy access from the existing field gate.

An amended plan has been submitted to address concerns raised by officers in respect of the design and appearance of the building. The design has a low pitched roof and an appearance not untypical of modern agricultural buildings and is therefore consistent with advice contained in the Council's Supplementary Planning Guidance on the Design of Agricultural Buildings.

Highway Safety

The site has two accesses directly off a relatively straight stretch of Heath Road. The use of the site for agricultural purposes in itself, including the keeping of beasts, would not require planning permission. The existing field gate from Heath Road close to the north west corner of the site will be used to access the building. The Director of Environment and Transport (Highways) does not object but recommends that improvements are made to the access to mitigate for any small increases in traffic to and from the site. However, given the potential unrestricted agricultural use of the land it is unlikely that it can be satisfactorily demonstrated that the proposed building will result in a significant increase in traffic to and from the site and that the recommended improvements are necessary and reasonable to make the proposed development acceptable in highway safety terms. In this case, the erection of the proposed building is considered unlikely to result in any significant adverse impact on highway safety.

Other Issues

The nearest buildings used for residential purposes are in excess of 330 metres from the proposed building. Given this separation distance the use of the building for accommodating livestock is considered unlikely to result in any adverse impact on the amenities of any residential properties.

Whilst Heath Woods and a wetland habitat are close to the application site, the site itself is a field used for grazing and the proposed building is unlikely to adversely affect any sites of ecological significance.

Conclusion

Whilst it is recognised that certain buildings of appropriate design to be used in connection with agricultural operations and activities can be acceptable in countryside locations, the need for any building must be balanced against the need to protect the countryside from unnecessary development. In this case, no agricultural justification has been submitted to demonstrate that the building is necessary or reasonably required in connection with agricultural operations or activities that would outweigh the need to protect the open and undeveloped character and appearance of the countryside. The application is therefore recommended for refusal.

RECOMMENDATION :- REFUSE, for the following reasons:-

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

Reasons:-

- 1 In the opinion of the local planning authority, the applicant has failed to demonstrate that adequate agricultural justification exists for the proposed building and as a result the proposed development would result in an unwarranted intrusion into the open and undeveloped countryside to the detriment of its character and appearance. The proposal would therefore be contrary to Planning Policy Statement 7 and policy NE5 of the adopted Hinckley and Bosworth Local Plan.

Contact Officer:- Richard Wright Ext 5894

Item: 02

Reference: 10/00800/FUL

Applicant: Mr Ian Lawrence

Location: Mira Ltd Watling Street Lindley Higham On The Hill

Proposal: CONSTRUCTION OF WORKSHOP AND ASSOCIATED OFFICE BLOCK AND PROVING GROUND CONTROL ROOMS

Target Date: 20 January 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is a major application.

Application Proposal

Full planning permission is sought for the demolition of existing storage units and erection of workshop and office block, incorporating proving ground control rooms. The application proposes a four storey office block containing offices, meeting and conference rooms with proving ground control rooms and terrace above. The proposed proving ground control rooms intend to replace the proving ground control functions, which are currently housed within an existing control tower to the east of the site. The vehicle workshop comprises of six warehouse units each containing an office, workshop, wc, shower and kitchen at ground floor, with a mezzanine floor creating storage and office area at first floor. Each workshop has two vertically folded steel doors and individual fenced off compound areas. A two storey entrance reception will link the workshop and office block.

Car parking is proposed to the east and north of the development and will provide an additional 125 spaces, five of which are for disabled users, along with six motorcycle spaces and twelve bicycle racks. The proposal intends increase the number of full time staff by 30 and part time staff by 20.

Following concerns raised by the Highway Agency a revised Transport Assessment and first draft of a Travel Plan were received (24 November 2010) and re-consultation was undertaken with the Highways Agency.

The Site and Surrounding Area

The application site is located within the established Motor Industry Research Association (MIRA) site which is a unique and extensive motor industry testing facility. The site of MIRA and its associated grounds are located on Watling Street (A5), between the villages of Higham on the Hill and Fenny Drayton, with the A5 running to the south. The proposed development would utilise the existing access to the MIRA site, from the A5. This development does not propose any modifications to this junction.

The proposed application site is located within the MIRA proving ground area and is accessed from the east, with a newly formed entrance coming off the main access road. The site is bordered to the east by the testing circuit and associated collector roads. The southern and western boundaries of the site are a collection of industrial units and roads.

The MIRA site covers almost 3 square kilometres in the countryside and there are only a small number of residential properties in close proximity to the site. The site and its employment provision are specifically recognised within the Hinckley & Bosworth Adopted Local Plan (2001).

Technical Documents submitted with application

The application submission included a comprehensive suite of technical documents for consideration with the proposal these include: -

Planning Statement

This considers the application site and surroundings and the proposed development in the context of national and local policy. It states that the proposal intends to relocate existing facilities and improve and upgrade research and office facilities.

Design and Access Statement

This considers the massing of the new development reflecting its function and prominence using materials which reflect modern research and development architecture. Some landscaping will be retained and additional low native shrub hedging included. It states the scheme will be constructed in line with current Building Regulation requirements, but also incorporate design features and a range of installed systems to reduce energy consumption. The access and parking have all been designed to reflect the highly sensitive nature of MIRA's operations by dividing employees and visitors parking areas into zones and incorporating two entrances. Finally it details that the scheme has been designed to acknowledge the overall design of the existing MIRA site and it will support economical growth and vision to create a "MIRA Centre of Excellence".

Transport Assessment

The surveys undertaken as part of the Transport Assessment (TA) conclude that the existing access arrangements with the A5 could remain within capacity and are considered to be appropriate for the level of potential vehicle movements envisaged. The assessment acknowledges that there is no bus accessibility currently provided to the site, instead emphasising alternative modes such as walking and cycling.

Travel Plan

A first draft Travel Plan was received (24 November 2010) which sets out MIRA's short and long term strategies for reducing employee's dependence on travel by private car.

Flood Risk Assessment

The report states that the development is located in Flood Zone 1 and as such is categorised as an area with a 'low probability' of flooding from rivers. The report concludes that due to the underlying impermeable ground conditions the new roofs and roads will not significantly increase the discharge over and above the existing Greenfield run off where the new building is to be constructed. As such, no increase in flood risk is anticipated at the MIRA Circuit, or its surrounding areas.

Biodiversity Report

The survey concludes many trees and shrubs on site are of limited ecological interest, with the key ecological features of the site being oak and ash trees which could potentially provide shelter for roosting bats. Whilst great crested newts are known to occur within 500m of the proposed development, they are unlikely to occupy any part of the development area. The survey recommends that the 440m of hedging to be planted along the edge of the car parking areas to be comprised of native species and that four or five house martin nest boxes should be installed on the northern end of the new building.

Arboricultural Survey

The survey identified several groups of trees have for removal within the survey due to the onset of Dutch Elm Disease and considered that they should not prove to be a constraint within the planning process. The report makes a number of recommendations including adequate compensation planting of native species, tree protection methods, time of removal and works to be undertaken by a tree surgeon.

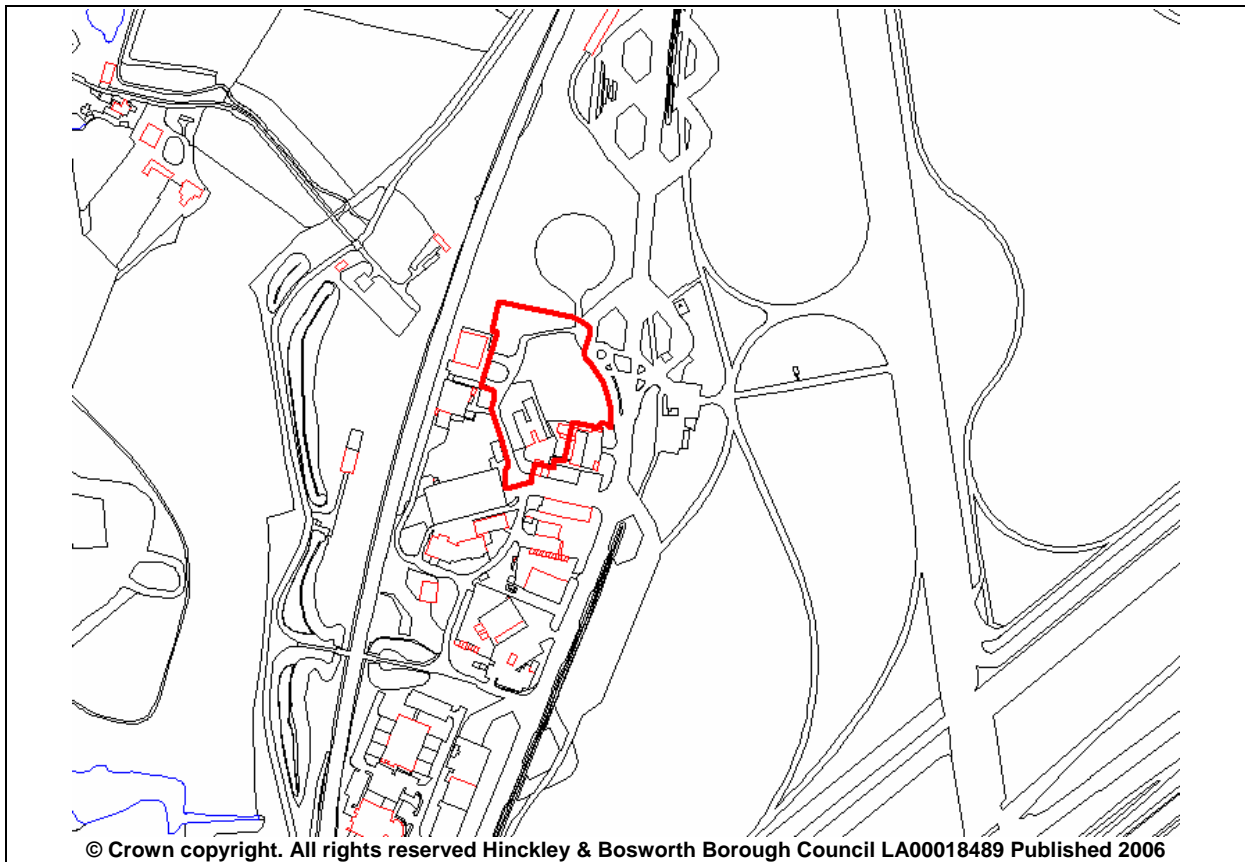
Heritage Statement

The report states that the site of the proposed Customer Facilities Building is of limited heritage interest. The little interest that does exist is solely linked to being within the bounds of the former Second World War, RAF Lindley Aerodrome.

History:-

There are numerous planning applications for this site, given MIRA's long and extensive history. The most up to date and relevant planning history is:-

10/00572/FUL	Construction of a steel portal framed building	Approved	06.09.10
10/00483/FUL	Erection of portal framed building	Approved	02.09.10
09/00464/FUL	Retention of portacabin for use as offices	Approved	10.08.09
09/00463/FUL	Retention of portacabins for use as offices	Approved	10.08.09
09/00462/FUL	Retention of building for the storage of vehicles	Approved	10.08.09
09/00313/FUL	Retention of storage for prototype vehicles	Approved	16.06.09

**Consultations:-**

No objection has been received from:-

Head of Community Services (Pollution)
Head of Community Services (Land Drainage)
Head of Business Development and Street Scene Services (Waste Minimisation)
Witherley Parish Council.

No objection subject to conditions have been received from:-

Director of Chief Executive (Archaeology)
Director of Environment and Transport (Highways)
Directorate of Chief Executive (Ecology)
Environment Agency
Highways Agency
Severn Trent Water.

Two site notices and press notices were displayed and neighbours notified.

Two further letters have been received:-

Nuneaton Cycling Club which states the proposed scheme presents an opportunity to improve cycling and pedestrian facilities and that metal fencing along the sites border should be removed in line with suggestion in Core Strategy Policy 20: Green Infrastructure.

Sustrans also request the incorporation of an A5 side cycle track for the full length of MIRA's frontage and include a connection with Weddington Walk at Wood Lane and a further extension of an off-carriageway cycling facilities alongside the A5 both to Atherstone and Dodwell's Bridge. Sustrans also seek that consideration is made to making the railway available for public access.

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

- a) Police Architectural Liaison Officer
- b) Higham on the Hill Parish Council.

Policy:-

Central Government Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' 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 (PPS4): 'Planning for Sustainable Economic Growth' in policy EC2.1(d) seeks to make the most efficient and effective use of land, prioritising previously developed land which is suitable for re-use and reflects the different location requirements of businesses, such as the size of site required, site quality and access. Policy EC6.2(a) and (b) state that in rural areas, local planning authorities should: strictly control economic development in open countryside away from existing settlements, or outside areas allocated for development in development plans. Policy EC10: Determining Planning Applications for Economic Development" which supports applications which secure sustainable economic growth. Policy EC10.2 sets out five impact considerations which all applications for economic development have to be assessed against.

Planning Policy Statement (PPS7) 7: 'Sustainable Development in Rural Areas', in paragraph 5 states that planning authorities should support a wide range of economic activity in rural areas. Paragraph 19 states that the Government is supportive of the replacement of suitably located, existing buildings of permanent design and construction in the countryside for economic development purposes. The replacement of buildings should be favoured where this would result in a more acceptable and sustainable development than might be achieved through conversion, for example, where the replacement building would bring about an environmental improvement in terms of the impact of the development on its surroundings and the landscape.

Planning Policy Statement 9 (PPS9): 'Biodiversity and Geological Conservation' requires Local Authorities to fully consider the effect of planning decisions on biodiversity including protected species and biodiversity interests in the wider environment.

Planning Policy Guidance Note 13 (PPG13): '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 (PPS23): 'Planning and Pollution Control' sets out national planning guidance on pollution of land, air and water.

Planning Policy Statement 25 (PPS25): 'Development and Flood Risk' 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.

Regional Policy Guidance

The decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010. Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies. The government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS's letter of 27 May 2010 and that it should still be regarded as a material consideration. However, these two letters and the SoS's letter of 27 May 2010 need to be considered against the judgment handed down and it is clear from the judgement that the High Court has reinforced the primacy and significance of Regional Strategies in the current planning system. The Court held that if changes are to be made to the status of Regional Strategies then those changes will need to come in the form of primary legislation. Changes cannot be made in the manner proposed by the SoS and it is also reasonable on the basis of the judgment to conclude that the letters of 27 May and the two letters sent following the judgment, whilst they may be regarded as material considerations, have to be weighed against the clarity and force of the judgement and the current legislative position, and in your officers' opinion should not be given any weight. The advice remains unchanged notwithstanding that a further challenge is to be mounted by Cala next month and the SoS continues to maintain that his earlier correspondence constitutes a material consideration.

East Midlands Regional Plan 2009

This is the Regional Spatial Strategy for the East Midlands and provides a broad development strategy for the East Midlands. The following relevant policies apply to this proposal:

Policy 2 'Promoting Better Design' seeks to continuously improve the level of co2 emissions and resilience to future climate change through the layout, design and construction of new development.

Policy 18 'Regional Priorities for the Economy' recognises the importance of raising skills, developing the service sectors and high value manufacturing and creating innovative businesses to ensure the region is better positioned to maintain economic competitiveness.

Local Development Framework Core Strategy 2009

Spatial Objective 1: 'Strong and Diverse Economy' identifies the need strengthen and diversify the economy by providing sufficient, sustainably located, good quality land and premises alongside skills training.

Spatial Objective: 12: 'Climate Change and Resource Efficiency' seeks to minimise the impacts of climate change by investing in green infrastructure and renewable energy technologies.

Hinckley and Bosworth Local Plan 2001

Policy EMP1: 'Existing Employment Sites' seeks to actively retain the MIRA site for its existing employment use.

Policy EMP5: 'MIRA, Built Development for Employment Purposes' seeks to ensure that a built development within the MIRA site is not to the detriment of the appearance and character of the area, complies with current highway standards, provides necessary landscape screening and makes provision for the storage of waste material.

Policy EMP6 'Surface Test Facilities and Landscaping to Proving Ground' seeks to ensure that development within the MITA site would not be detrimental to the amenities enjoyed by occupiers of nearby dwellings by reason of visual intrusion, noise and effect on the general character of the area.

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 BE16: 'Archaeological Investigation and Recording' states that the Local Planning Authority can impose conditions requiring that satisfactory archaeological investigation and recording be carried out.

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

Policy NE12: 'Landscaping Schemes' states that development proposals should make provision for further landscaping where appropriate.

Policy NE14: 'Protection of Surface Waters and Groundwater Quality' protects the water environment.

Policy T3: 'New Development and Public Transport' states that where planning permission is granted for major new development provision will be made for bus access and appropriate supporting infrastructure.

Policy T4: 'Retention of Car Parking Facilities' provides that development of existing off street car parking will be granted where there is either an over provision or alternative parking provision is proposed.

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

Policy T9: 'Facilities for Cyclists and Pedestrian's encourages walking and cycling including facilities for cycle parking.

Policy T11: 'Traffic Impact Assessment' requires developers to provide a traffic impact assessment for development likely to generate significant traffic flows.

Other Material Policy Documents

The Employment Land and Premises Study undertaken in May 2010 identifies MIRA as a key business that wants to improve its buildings to enhance its high-tech business image and recommends that the MIRA site is retained for employment uses.

Appraisal:-

The main considerations with regards to this application are the principle of development, siting and design, impact upon residential amenity, highway issues, drainage and other matters.

Principle of Development

MIRA is an established site, created following the closure of RAF Nuneaton in the late 1940s. MIRA is subject to its own planning policies in the Adopted Local Plan (2001) and the use of the site is recognised as playing an important role in the Borough's economy, particularly in terms of employment.

Policies EMP1, EMP5 and EMP6 of the Adopted Hinckley and Bosworth Local Plan generally support development within the MIRA site, with Policy EMP5c setting out the potential for additional infill development. As such, there is a presumption in favour of development subject to all other planning matters in particular amenity, highways, visual intrusion and pollution, being appropriately addressed and controlled.

In the case of this development, the applicant has sought to address all of these issues in their submission and consultees have been consulted on the respective issues. Subject to these responses and the matters addressed later in the report, the principle of this development is considered acceptable.

Siting and Design

The development will be sited to the north of an existing group of buildings towards the centre of the Mira site and on the site of the existing storage units which are proposed to be demolished. The existing units are bound on three sides by existing research facilities

The proposed development is of a contemporary design in a linear formation. The office and control tower building would be the highest of the developments at a maximum height of 14.1 metres and constructed in red brick, metal composite panels and aluminium curtain walling. The workshops of a more functional and utilitarian appearance but made contemporary by the cured roof and metal materials. The workshops will be constructed in red brick, horizontal metal composite panels with standing seam metal roof to a maximum height of 7.55 metres to the crest of the curved roof. The 'link' reception would be constructed in metal composite panels with a glazed entrance lobby. It is considered that the buildings design and materials reflect its function whilst also providing a visually attractive scheme.

The MIRA site, because of the highly competitive and therefore confidential nature of the testing and work that takes place within the site, is already well screened from existing landscaped areas and as such there are limited views from outside of the site.

As a result of the obvious seasonal changes to the landscape cover, and the overall scale of the development at a maximum height of 14.1 metres, it is considered that the development is likely to protrude above some of the existing landscape screening. It is important to note that there is no formal planning policy requirements that development at MIRA should be screened and the presence and existence of new development within the countryside is an

intrinsic part of mans involvement and use of the rural landscape. Accordingly, it is a case of new development in this location being compatible in terms of its scale and appearance and particular care will need to be exercised over the materials of construction. The design and appearance of the development is such that it is not considered that there would be any significant visual harm and that any views are likely to be partial glimpses of activity rather than open views. Notwithstanding this point, some long distance views of the development and the Mira site as a whole are available from Stoke Golding because of the village's position on higher ground. It is considered that these views are long distance in nature and the proposal will where seen, be against the backdrop of the existing Mira site and buildings and no visual harm to visual amenity of the underdeveloped character of the countryside will arise.

In terms of sustainability, the developments' layout and positioning has intended to fully utilise daylight and enhance solar gain. It also proposes to install air source heat pumps, solar watering heating and a collection of energy efficient systems. It is considered that the development is intended to incorporate measures to improve sustainability, over and above requirements sought through the planning process and is therefore supported.

In summary, the developments contemporary appearance results in a development of interest that sits well in relation to other buildings within the site. By the very nature of the site, existing landscaped areas provide significant screening, which together with the appearance of the proposed development would not result in any material impact upon visual amenity. It is considered that the development is in accordance with guidance contained within PPS1 and PPS7 and the applicable adopted Local Plan Policies.

Residential Amenity

Consideration has been given to the impact of the development on surrounding residential properties despite receiving no letter of representations during the course of the application.

The residential property most immediately impacted upon as a result of the development would be Rowden Lodge, sited some 600 metres away to the west of the site. It is considered that given the distance and extensive screening that the MIRA site already benefits from, the development is not considered to create any significant detrimental impacts. Whilst there are other properties bordering the site to the west, given the site area of MIRA, it is considered that there would be no material impacts as a result of the development.

Furthermore, the intended use of the development is for the upgrading of workshop facilities and offices for motor industry customer organisations and as such is not likely to result in a significant additional use of the track facilities.

In summary, it is considered that the buildings and their use would not result in any adverse impacts upon the occupiers of nearby residential properties. Accordingly, the scheme is considered to be in accordance with Policy BE1 of the Local Plan.

Access and Highway Considerations

The Transport Assessment accompanying the application states that there are no improvements or modifications to the A5 junction or to the circulation network within the MIRA are required. The assessment acknowledges that there is no bus accessibility currently provided to the site, instead emphasising alternative measures such as walking and cycling. Following ongoing discussions between the applicant and the Highways Agency revised documentation has been received.

Despite the absence of any improvement to public transport, which results in the development not being carried out strictly in accordance with the requirements within T3 of the Local Plan, the main considerations assessed by the Highways Agency were with regard to the impact upon the junction with the A5. The Highways Agency originally raised concerns in respect of the TA being insufficient to assess this impact; however, following the revised documentation the Highways Agency raises no objection to the development, subject to the imposition of relevant conditions.

The Director of Environment and Transport (Highways) states that whilst the site did not score well from an accessibility point of view, however it has been acknowledged that the amount of additional traffic generated by this proposal would be immaterial against the existing level of traffic flows to and from the development.

With respect to car parking, 125 additional spaces are to be provided in association with this development, combined with the existing 68 spaces which already exist, which are occupied by users of adjacent building. The scheme intends to consolidate all parking into a single facility. With regards to cycle/pedestrian routes there is an existing footway which runs along the north side of the A5 which connects to both a designated footpath/cycleway Cycle Route 52 and to the east of the main vehicular access.

In response to representations made with respect to expansion and connection of cycle routes, it is considered that given the current nature of MIRA's operations, and the associated level of security required, it is unlikely at this stage that cycle routes from the northern, western and eastern boundaries would be explored at this time. However, the Highways Agency request for a Travel Plan could explore the increase of cycle provision and routes further.

In summary, whilst the development does not intend to improve or modify the A5 junction, the impact upon the A5 as a result of the development is not considered unacceptable in transport planning terms. The development has been considered by both the Highways Agency and the Director of Environment and Transport (Highways) and both parties raise no objection to the development on highway grounds. Accordingly the development is in accordance with Local Plan Policies T4, T5, T9, T11 and guidance contained within PPG13.

Drainage and Flood Risk

The Flood Risk Assessment details the proposed development and associated vehicle parking will give an additional 0.86 ha of impermeable surfaces. The Head of Community Services (Land Drainage) stated that consideration should be given to the use of permeable paving in access ways, parking and turning areas. In response, the applicant has confirmed that car parking to the north of the building will have cellweb or a similar alternative permeable surfaces and that block paving will serve the pedestrian areas. The applicant has also confirmed that a land drain will be incorporated beneath the cellweb area connecting to the surface water drainage. The Flood Risk Assessment confirmed that surface water drainage discharges into balancing ponds to the west of the site. As such, the surface water is being retained within the site and decreasing the associated flood risk.

Whilst it is acknowledged that there has previously been a dispute in respect of surface water flooding along the sites western boundary between certain parties, a Flood Risk Assessment was submitted with the application and this has been considered by both the Environmental Agency and Severn Trent Water whom raise no objection to the development on flooding grounds.

The Environment Agency also commented on their objective to promote the adoption of water conservation measures in new developments. Such measures have been included in

the Design and Access Statement accompanying the application. As such, it is considered that these objectives have been considered.

In summary, it is considered that no increase in flood risk is anticipated and accordingly the development is considered acceptable in relation to guidance contained in PPS25. In addition, the Environment Agency and Severn Trent Water raise no objections, subject to the imposition of conditions to secure drainage plans and a scheme to install oil separators, in order to protect the water environment. As such, it is considered that the proposed works will be in accordance with Policy NE14 of the Local Plan.

Other Matters

Ecology

The Biodiversity report accompanying the application identifies that bird species and bats could be expected to nest and roost within the oak and ash trees, respectively. The report confirms that Great Crested Newts are unlikely to occur within the development site area and no reptile species were identified. The Directorate of Chief Executive, (Ecology) accepts the report submitted with the application and concluded that this development would not have any impacts upon any designated sites of ecological importance or protected species.

Accordingly, it can be concluded that the proposal will not have any adverse impacts upon sites of ecological importance or protected species and as such is considered acceptable in relation to guidance contained in PPS9.

Impact on trees

The Arboricultural Report submitted with the application reveals that the consequence of the proposals would be the loss of an ash tree to the north and the line of conifers to the east along with other groups of trees which have been highlighted for removal, due to the onset of Dutch Elm Disease. The oak and ash trees within the proposed car park area have been retained and a further oak (5447) set to be removed will be replaced (T1). The Directorate of Chief Executive, LCC (Ecology) supports the retention of the oak and ash trees and agrees with the native species for replacement planting.

In summary, the loss of trees, identified as low importance and quality, are not considered worthy of retention within the scheme and given the retention and replacement of further trees and hedgerows, it is considered that the impact upon trees to be negligible.

Landscaping

An indicative landscaping plan has been submitted as part of the application which shows landscaping around the development to create a softened setting. It is considered necessary to attach a condition to ascertain the proposed numbers mix and implementation of any such scheme. It is also considered that the MIRA site already benefits from existing landscaping and is characterised by mature hedgerows to the west of the site and as such it is not considered necessary to ensure additional substantial landscaping on the site in accordance with Policy NE12 of the Local Plan.

Heritage

The Heritage report submitted with the application states that the site is of limited heritage interest and that the little interest that does exist is solely linked to being within the bounds of the former Second World War, RAF Lindley Aerodrome. The Director of Historic and Natural Environment (Archaeology) states that a condition should be attached to ensure that the

appropriate level of building recording should be undertaken prior to commencement to ensure important information about the buildings link to the Second World War airfield is not lost. It is considered that the investigation and recording will be secured by the imposition of planning conditions.

Pollution

The Head of Community Services (Pollution) has no objection to the proposal and as such there it is considered that the development is acceptable in pollution terms. Impacts upon water pollution will be secured by the imposition of planning conditions. Accordingly the development is considered to be in accordance with Local Plan Policy NE2 and guidance contained with PPS23.

Conclusion

The development represents an acceptable form of development that conforms to the adopted planning policy for this protected employment site. As a result of the layout, design and appearance of the proposed development and associated works, together with existing landscaping, it is considered that there would not be any significant material impacts upon visual or residential amenity. The development is not considered to have a detrimental impact upon the A5 and the risk of flooding, impact upon trees and protected species is considered minimal. Conditions can be imposed to address concerns in respect of sustainable modes of travel, water environment and historical investigation and recording.

Accordingly the application is recommended for approval subject to conditions.

RECOMMENDATION :- Permit subject to the following conditions:-

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as: it relates to a development on an established employment site for economic development purposes, would not have significant material impacts upon visual or residential amenity, highway safety, flooding or ecology.

Hinckley & Bosworth Local Plan (2001):- EMP1, EMP5, EMP6, BE1, BE16, NE2, NE12, NE14, T3, T4, T5, T9, T11.

Hinckley & Bosworth Core Strategy (2009): - Spatial Objective 1 and 12.

- 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 that in complete accordance with the submitted applications details as follows: Application Site and Location and Access Plan Drawing No. PLAN 2; Site Plan/Parking Plan Drawing No. PLAN 5; Landscaping Plan Drawing No. 09.034.00(LA)-001; Site Drainage Plan Drawing No. 11367-(DR)-01 P; Site Plan Location Plan Context Plan Drawing No 09.034.00 (P)-001 A; Ground and First Floor Plans Drawing No. 09.034.00 (P)-002; Second, Third & Roof Plans Drawing No. 09.034.00 (P)-003; Elevations and Sections Drawing No. 09.034.00 (P)-004 received by the Local Planning Authority on 21 October 2010; External Works GA Plan Drawing No. 11367-(EX)01 T4; Drainage

Layout Drawing No. 11367-(DR)-01 T4 received by the Local Planning Authority on 15 November 2010.

- 3 Before development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed building shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved details.
- 4 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 5 The development hereby permitted shall not be commenced until such time as a scheme to install oil separators has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved before the first use of the facility hereby approved.
- 6 No development shall take place until a Travel Plan for the development hereby approved has been submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be fully implemented before the first use of the facility.
- 7 The vehicular parking spaces indicated on the approved plan shall be available for such use at all times.
- 8 Notwithstanding the submitted details, no development shall commence until full details of 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) planting plans
 - ii) written specifications
 - iii) schedules of plants, noting species, plant sizes and proposed numbers
 - iv) an implementation programme.
- 9 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 10 No development shall take place within the application area until the applicant has secured the implementation of an appropriate programme of archaeological work (in this instance, historic building recording) in accordance with a Written Scheme of Investigation which has been submitted to and approved by the planning authority. No development shall be undertaken only in full accordance with the approved written scheme. No variation shall take place without the prior written consent of the local planning authority.
- 11 The applicant shall notify the local planning authority of the intention of commence works (including site work 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, analysis, report writing 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 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 a satisfactory standard of external appearance to accord Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy NE14 of the adopted Hinckley & Bosworth Local Plan and guidance contained within Planning Policy Statement 25 'Development and Flood Risk'.
- 5 To ensure the water environment is protect in accordance with Policy NE14 of the adopted Hinckley & Bosworth Local Plan.
- 6 In order to minimise of the use of the private car and promote the use of sustainable modes of transport in accordance with Policies T3 and T9 of the of the adopted Hinckley & Bosworth Local Plan and guidance contained in Planning Policy Guidance Note 13 'Transport'.
- 7 To ensure that adequate off street car parking provision is provided, in the interests of highway safety and in accordance with Policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 8 To enhance the appearance of the development and to ensure that the work is carried out within a reasonable period and thereafter maintained to accord with Policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 9 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with Policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 10 To ensure that preparation and implementation of an appropriate scheme of historic building recording to accord with Policy BE16 of the adopted Hinckley & Bosworth Local Plan.
- 11 To ensure satisfactory archaeological investigation and recording to accord with Policy BE16 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.
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 With respect to Condition 10 the Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of historic building recording is undertaken to the satisfaction of the planning authority.

- 6 Any safety works that are required e.g. removal of dead wood, should be preceded by a climbing inspection by an ecologist or an arborist with appropriate bat-training.

Any damaged tree branches should be treated by a competent tree surgeon.

Any removal of scrub or dead elm should take place outside of the bird nesting season (March to September inclusive) If works take place during the bird breeding season, usually from March to September inclusive, trees and hedgerows should be checked for nesting birds. If any trees are to be removed this should be done outside the breeding season or in the presence of a suitably qualified ecologist.

The use of 'no dig' construction method in relation to parking areas where root zones are compromised by proposed parking.

This Arboricultural Survey is valid for a period of 12 months. If works are not commenced within this time period then it is advised that the trees are re-inspected to ensure no significant defects have developed since the original survey.

Any trees, hedges or woodland that are to be retained should be adequately protected by Heras fencing (in line with BS5837) extending at least to the Root Protection Radius (RPR), to prevent accidental damage by vehicles or contractors.

Tree protection should be included in the induction and/or briefing sessions by the contractors to their workforce.

Soil compaction, from the storage of large quantities of materials and plant tracking, may result in changes to soil permeability and local drainage. This may lead to waterlogging or loss of soil crumb structure. These effects may in turn lead to root asphyxiation and root death, a cause of instability and or mortality in trees. For this reason, heavy machinery and the storage of materials should be excluded from the crown radius of all trees.

Additional to all of the above, it is the duty of all works personnel to maintain vigilance and care for wildlife during demolition and construction. If any wildlife issues arise, this should be brought to the attention of the site manager who can contact the appointed project ecologist to determine if any action is necessary.

Contact Officer:- Ebony Mattley Ext 5691

Item: 03

Reference: 10/00811/FUL

Applicant: Mr Stubley

Location: Land North East Of Reservoir Road Thornton

Proposal: ERECTION OF FOUR STABLES AND FEED/TACK ROOM

Target Date: 5 January 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, at the request of a local Member.

Application Proposal

This application seeks full planning permission for the erection of four stables and a feed/tack room on land to the north east of Reservoir Road, Thornton. The proposed stables and feed/tack room are to be constructed with a concrete base, timber shiplap boarding walls and timber doors and roof of steel sheets finished in green. The stables have a pitched roof with a height of 4.4 metres to ridge, 2.7 metres to eaves. The stables are arranged in an 'L' shape with a concrete hard-standing to the fore and occupy an overall footprint of approximately 15 metres x 10 metres. Access to the site is currently gained via a field gate off Markfield Lane/Whittington Lane, Thornton. An amended plan has been submitted to relocate the stables further from the boundary hedgerow to the east.

The Site and Surrounding Area

The application site is a grassed field measuring approximately 0.7 hectares located in the countryside to the south east of Thornton, north east of Reservoir Road and west of Markfield Lane/Whittington Lane. The application site is currently being used for the keeping of horses. There are grassed fields around the site, those to south west and north west are also currently in the ownership of the applicant resulting in a total land holding of approximately 3.4 hectares in total. The east and south west boundaries of the application site are defined by mature field hedgerows and the north east boundary by a post and wire fence. The hedgerow fronting Markfield Lane/Whittington Lane to the east is identified as a Site of Importance to Nature Conservation (SINC).

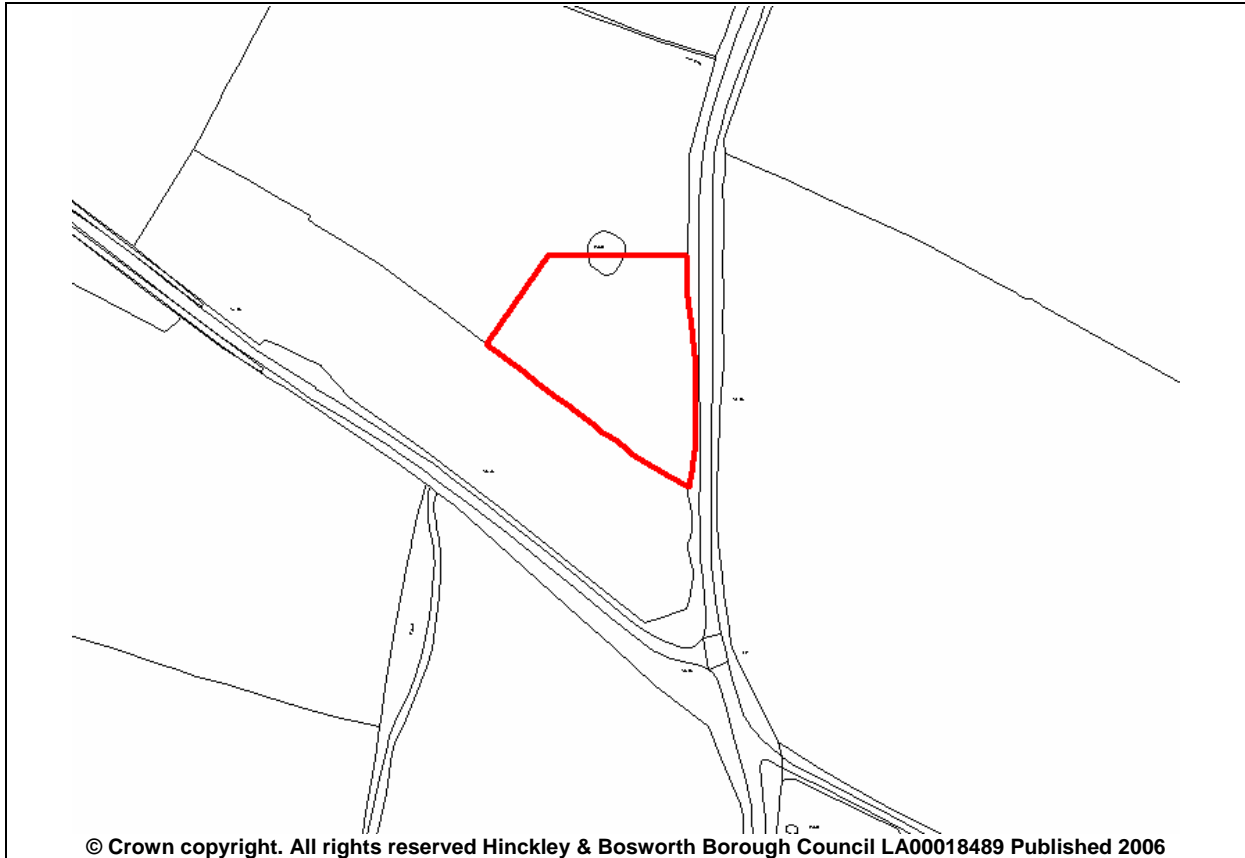
Technical Documents submitted with the Application

A Design Statement has been submitted to support the application. This states that Mr Stubley breeds horses for a living and currently has over a hundred horses most of which he feeds in the fields in the winter. It also states that the proposed stables will be used for

occasions when the vet is in attendance and that they are well screened from Markfield Lane/Whittington Lane by a large hedge.

History:-

09/00986/GDO	Erection of Agricultural Building to Keep Livestock	Approved	27.01.10
09/00907/GDO	Erection of Building for Cattle and Machinery	Withdrawn	22.12.09



Consultations:-

No objection has been received from:-

Environment Agency
Chief Executive, Leicestershire County Council (Ecology)
Head of Community Services (Land Drainage).

No objection subject to conditions has been received from:-

Director of Environment and Transport (Highways)
Head of Community Services (Pollution).

Bagworth & Thornton Parish Council object to the application as they question the need for and future use of the previously approved agricultural building and the future intended use of the land as the applicant has not demonstrated any agricultural activity or intentions and also the need for the use of stables and a tack room.

Site notice posted, eleven letters received in total, including one from a local County Councillor and one from Thornton Action Group together with nine neighbour letters who raise concerns and objections on the following grounds:-

- a) question the need for and future use of the previously approved agricultural building and the future intended use of the land and refer to previously submitted warnings, noting the same agent is being used
- b) question the wider planning context of permitting built development in the locality and implications for the potential development of the adjacent site
- c) refer to the characteristics of certain breeds of horse, question the credibility of the application and the need for four stables and a tack/feed store on the site
- d) countryside policies severely restrict built development in the open countryside and no special justification has been provided to depart from those policies
- e) questions whether the proper consultation procedures have been carried out in respect of the application
- f) will have detrimental impact on National Forest and designated sites, important habits and biodiversity in reference to the hedge running along the front of the site being designated as a SSSI due to the number of species identified
- g) refer to previous incursions and injunctions near the site
- h) refer to lack of neighbour and community consultation
- i) detrimental to local natural beauty spot
- j) detrimental to highway safety.

At the time of writing the report comments have not been received from Severn Trent Water Limited.

Policy:-

Central Government Guidance

Planning Policy Statement 7: Sustainable Development in Rural Areas' sets out the government's national policies for land use planning in rural areas. Paragraph 1 states that new building development in the open countryside away from existing settlements should be strictly controlled in order to protect the countryside for the sake of its intrinsic character and beauty and diversity of its landscapes and 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. Paragraph 14 advises that planning has an important role in supporting and facilitating development which enables those who earn a living from the countryside to continue to do so. Paragraph 15 states that planning policies should provide a positive framework for facilitating sustainable development that supports traditional land-based activities that require a countryside location whilst ensuring that the character of the wider countryside is protected. Paragraph 16 advises that in determining planning applications for development in the countryside, local planning authorities should support countryside-based enterprises and activities which contribute to rural economies and promote recreation in and the enjoyment of the countryside. Paragraph 32 states that equestrian activities can fit in well with farming activities and help to diversify rural economies. Local planning authorities should support equine enterprises that maintain environmental quality and countryside character.

Planning Policy Statement 9: 'Biodiversity and Geological Conservation' includes the broad aim that development should have minimal impacts on biodiversity and enhance it where possible.

Local Development Framework Core Strategy 2009

There are no relevant policies within the Core Strategy.

Hinckley and Bosworth Local Plan 2001

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

Policy BE1: 'Design and Siting of Development' seeks to safeguard and safeguard and enhance the existing environment. The policy states that planning permission will be granted where development:- complements or enhances the character of the surrounding area with regard to scale, layout, mass, design and materials; has regard to the safety and security of individuals and property; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; does not adversely affect the occupiers of neighbouring properties and incorporates landscaping to a high standard.

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

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

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

Policy NE14: 'Protection of Surface Waters and Groundwater Quality' seeks to protect water quality and ecology of watercourses and groundwater resources and requires satisfactory arrangements to be made for the disposal of foul sewage and effluent.

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

Other Documents

Leicestershire County Council document 'Highways, Transportation and Development' provides further guidance on all highway related matters.

Appraisal:-

The main considerations with regards to this application are: the principle of development in the countryside; the design and layout of the proposed development; and its impact on the countryside, biodiversity, highway safety and other issues.

Principle of Development

Government guidance in Planning Policy Statement 7 and adopted local plan policy NE5 seek to protect the countryside for its own sake, however, it is also recognised that certain forms of built and other development, including those related to equine enterprises and activities, can be appropriate in countryside locations and there is support for such development subject to there being no harm to the character or appearance of the countryside, neighbouring properties, the environment or highway safety. The keeping of horses is a land use that is generally acceptable in principle in countryside locations and the

provision of stables for the health and welfare of horses is not unreasonable and is also generally acceptable in principle in such locations.

Whilst the proposal would introduce built form to the application site where none currently exists, planning permission has been granted in the past for buildings in association with the grazing of horses on land further to the north east along Markfield Lane/Whittington Lane, including a field store and animal shelter of brick and tile construction that has greater visual prominence (reference 95/00621/FUL).

In this case, the stated intention of the proposed stables is that they be used for purposes associated with the current use of the application site for the keeping of horses and in determining the application on its own merits, the proposal is considered to be acceptable in principle.

Design, Layout and Impact on the Countryside

The proposed siting of the stables building close to the east boundary of the site will provide easy access from the existing field gate from Markfield Lane/Whittington Lane whilst taking advantage of existing screening by the mature field boundary hedgerows to the east and south. The siting, as proposed on the amended plan, at 4 metres from the growth line of the hedgerow, is considered to minimise the prominence of the building and its impact on the wider countryside by restricting views of the building. The stables are arranged in an 'L' shape which is considered to minimise the footprint required for hard-standing areas to service the stables. In addition, the stables are orientated so that there is a blank elevation facing towards Markfield Lane/Whittington Lane which is considered to minimise visual impact.

The scale of the building at 4.4 metres to ridge and 2.7 metres to eaves is considered to reflect that of traditional stable buildings found in the countryside. The number of stables proposed and the footprint occupied is not considered to be over and above that which is reasonable for the size of the land holding. The proposed use of timber shiplap boarding walls, timber doors and roof sheets finished in green is considered to be appropriate in terms of the visual appearance of the building and its rural setting. An appropriately worded condition could be used to ensure the use of appropriate materials should the application be permitted.

Impact on Biodiversity

The hedgerow along the east boundary of the application site has been identified as being a Site of Importance to Nature Conservation (SINC) at District level. The proposals do not include the removal of any of this hedgerow and the Chief Executive, Leicestershire County Council (Ecology) has confirmed that a 4 metre buffer zone from the growth line of the hedgerow should be sufficient enough such that the construction of the stables will not have an adverse impact on the root system of the hedgerow. Whilst there is a small pond on the north boundary of the site, the Chief Executive, Leicestershire County Council (Ecology) comments that it is unlikely that Great Crested Newts are present as the pond looks to be unsuitable, the surrounding fields are used for grazing, there are no records of protected species in the area and no ecological surveys are required in this case. An amended plan has been received that relocates the stables a distance of 4 metres from the growth line of the hedgerow. As a result, the proposals are not considered to have an adverse impact on biodiversity whilst still remaining well located in relation to the hedgerow in terms of impact on the countryside.

Highway Safety

The existing field gate from Markfield Lane/Whittington Lane in the south east corner of the site will be used to access the stables therefore there is no requirement to form any additional access to the site. The Director of Environment and Transport (Highways) does not object but refers to standing advice and recommends that the stables be restricted to private use and that improvements to the access be secured in terms of gate set-back, access surfacing and visibility.

A condition to restrict the use of the stables such that they cannot be used for commercial livery is considered to be reasonable in this case as such a use is likely to result in additional traffic turning into and out of the site. Whilst improvements to the access may be desirable to the Highway Authority, given that the proposed stables are intended to be used by the applicant in connection with the current use of the site for the keeping of horses, it is unlikely that it could be satisfactorily demonstrated that the development would result in a significant increase in traffic to and from the site and that, therefore, the improvements are necessary and reasonable to make the proposed development acceptable in highway safety terms. As a result, the recommended improvements to the access are considered to be unreasonable and unnecessary in relation to the provision of the stables in this case. Following further consideration of the application, the Highway Authority have withdrawn the recommendation in respect of the provision of visibility splays but still recommend surfacing of the access. For the reasons stated above, it is considered that surfacing of the access is unnecessary and will alter the appearance of the field access to the detriment of the rural character of the area.

Other Issues

The Head of Community Services has raised no objections subject to a standard condition that no burning of manure or other waste shall be carried out on the site and that animal waste and contaminated water shall be disposed of in an appropriate manner.

There are no nearby neighbouring dwellings that would be adversely affected in terms of residential amenity.

Whilst consideration has been given to the representations made in respect of the agricultural building recently approved under the prior notification procedure on adjacent land, the alleged manipulation of the planning system, the alleged attempt to influence the planning context of the adjacent site for potential future development and the credibility of the application in respect of particular breed of horses, the application must be considered on its own planning merits and these are not issues that provide a sustainable reason to refuse the application.

There is no injunction relating to the application site, however, the Borough Council has obtained a legal undertaking from the applicant that no development shall take place on the adjacent land or the application site unless planning permission has first been granted for such development. The undertaking does not prohibit a planning application being made or planning permission being granted if the proposal is acceptable on its planning merits.

In relation to the consultation process, Bagworth & Thornton Parish Council were formally consulted on the application (18 November 2010) and a site notice was posted at the entrance to the site (23 November 2010). There is no legal requirement for the applicant to engage in neighbour or community consultation prior to making an application of this nature.

Conclusion

The erection of stables for use in association with the keeping of horses on the site is considered to be an acceptable form of development in this countryside location. As a result of the layout, design, scale and appearance of the stables together with existing landscaping it is considered that the development will not have a significant adverse impact on the character or appearance of the site, the wider landscape or biodiversity and that it is not out of keeping with the size of the land holding. As a result of the intended use and scale of development it is considered that it will not have an adverse impact on highway safety. The application is therefore recommended for approval subject to conditions.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, 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 for equine related use in association with the land holding and as a result of the siting, design, scale and appearance of the stables would not have a significant adverse impact on the character or appearance of the countryside, biodiversity, or highway safety.

Hinckley & Bosworth Borough Council Local Plan (2001):- BE1, NE5, NE2, NE12, NE14 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; Plans and Elevations at 1:100 scale received by the local planning authority on 10 November 2010 and Amended Block Plan at 1:500 scale received by the local planning authority on 15 December 2010.
- 3 The stables and feed/tack room hereby approved shall be constructed in timber boarding with a steel sheet roof finished in green, strictly in accordance with the details submitted on the approved Plan and Elevations Drawing. Before any development commences, representative samples of the types and colours of all materials to be used in the construction of the building shall be deposited with and approved in writing by the local planning authority and the development shall be implemented strictly in accordance with the approved materials.
- 4 No horse manure or other waste materials shall be burnt on the site at any time.
- 5 The stables hereby permitted shall not be used for any commercial livery/riding school nor any other business or commercial use.

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 and NE5 of the adopted Hinckley & Bosworth Local Plan.
- 4 To safeguard the visual amenities of the countryside to accord with policy NE5 of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure that the development does not lead to an unacceptable increase in vehicle movements into and out of the site using an access that is substandard in terms of width and visibility in the interests of highway safety to accord with policies NE5 and 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.
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 Animal waste and surface water contaminated by animal waste must not be discharged to ditches, watercourses or soakaways. Slurry, contaminated runoff - including wash water - and leachate from stockpiled manure, must be collected in tanks (or lagoons) complying with the standards laid down in the 'Control of Pollution (silage, slurry and agricultural fuel oils) Regulations 1991'. Clean water should be discharged to soakaways (subject to suitable ground strata), ditches or watercourses.

Contact Officer:- Richard Wright Ext 5894

Item: 04

Reference: 10/00818/CONDIT

Applicant: Woodlands Nurseries House

Location: Woodlands Nurseries House Ashby Road Stapleton

Proposal: VARIATION OF CONDITION TWO OF PLANNING PERMISSION 09/00940/FUL FOR MINOR CHANGES TO THE BUILDING DESIGN AND RELOCATION OF TANKS

Target Date: 2 February 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is a major development.

Application Proposal

Members may recall that planning permission (reference 09/00940/FUL) was approved for the demolition of some buildings within the Woodlands Garden Centre site, the change of use of the existing warehouse to retail sales, the erection of a new storage building, relocation of tanks and sewage treatment plant and alterations to the open sales area and additional car parking. This application seeks a variation to Condition 2 of the permission which relates to the development being carried out in accordance with specific plans submitted with the application. This application seeks to substitute the approved plans to allow alterations to the scheme in relation to:

- a) variations to the finish of the entrance canopy
- b) the use of more extensive glazing to the entrance area of the main building to replace brick walls and high level windows
- c) alterations to the ground levels and the provision of a low level retaining wall and planter to allow amendments to the ramped access for visitors with impaired mobility
- d) other alterations to the main building include relocation and/or insertion of additional doors and windows to improve servicing to parts of the building
- e) variations to the materials/finish of the warehouse storage building
- f) re-location of the LPG and oil store tanks within the rear yard to allow for the formation of an earth bund and landscaping as part of a noise mitigation scheme in respect of the neighbouring dwelling.

The Site and Surrounding Area

The garden centre covers an area of approximately 6.68 hectares in total and is located on the west side of the A447 (Ashby Road) 1 mile north of Stapleton. The garden centre is surrounded by open agricultural land with occasional detached dwellings to the west, east and north. In addition to the main building containing retail areas for a wide range of horticultural and other products, a cafe and storage area, there are outdoor sales areas and large horticultural glasshouses together with service yards and staff/visitor parking areas within the overall site. There are also two detached dwellings within the site. The existing commercial buildings have grown in stages since the late 1970's and are single storey, mainly medium height, steel framed structures with a mixture of glazed and brick panel walls and pitched roof bays together with some brick built extensions with flat roofs. The parking areas are divided between formal marked tarmac areas immediately around the building together with more informal temporary hardcore areas and unmarked overspill parking in the grassed landscaped area to the south of the access. The boundaries to the site are generally hedgerows and narrow bands of perimeter tree planting.

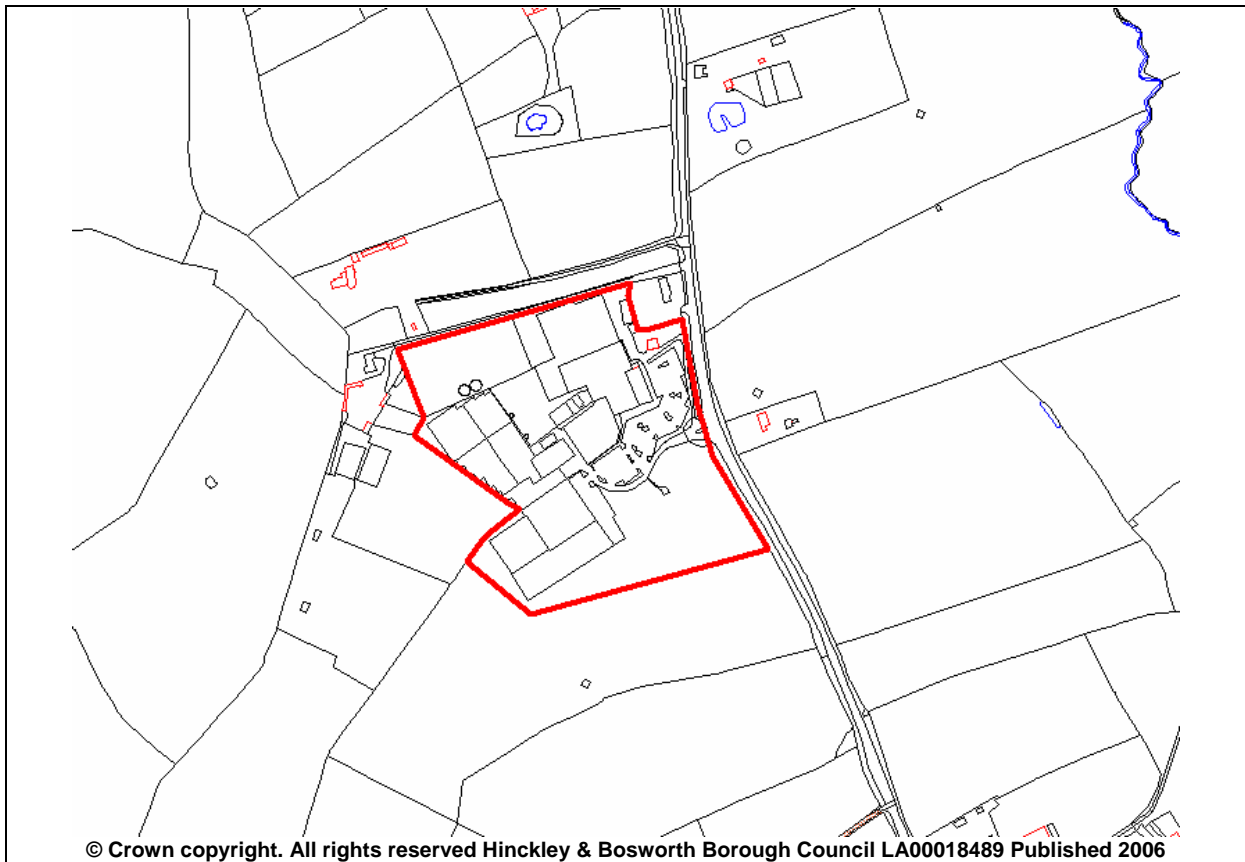
Technical Documents Submitted with the Application

A letter has been submitted by the agent in support of the application which suggests that the variations follow the general principles (of the approved planning permission) in that they do not alter or enlarge the size of the buildings as proposed nor in relation to their position, mass or scale and that the variations sit comfortably within the overall scale of the buildings. The agent has previously submitted an application and information to discharge a number of other conditions attached to planning permission 09/00940/FUL.

History:-

There is an extensive planning history relating to this site, the most relevant to this application being:-

09/00940/FUL	Demolition of Bungalow, Part of Glasshouse and Garden Centre Offices, Change of Use of Existing Garden Centre Warehouse to Retail Sales, Erection of Storage Building and Entrance Canopy, Relocation of Water Tanks, Fuel Tanks and Sewage Treatment Plant & Formation of Additional Car Parking and Alterations to the Open Sales Area.	Approved	01.06.10
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Consultations:-

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

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

Leicestershire Constabulary Crime Reduction Officer
Peckleton Parish Council
Press Notice
Site Notice
Neighbours.

Policy:-

Central Government Guidance

Planning Policy Statement 4 (PPS4): 'Planning for Sustainable Economic Growth' in paragraph 10 seeks to achieve sustainable economic growth by improving the economic performance of both urban and rural areas.

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' in paragraph 1 advises 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. Paragraph 5 encourages planning authorities to support a wide range of economic activities in rural areas including the expansion of business premises to facilitate healthy and diverse economic activity. Paragraph 15 encourages the support of countryside based enterprises that contribute to rural economies.

Regional Policy

The East Midlands Regional Plan (2009) in Policy 2 promotes better design.

Local Policy

Local Development Framework Core Strategy 2009

There are no relevant policies in the Core Strategy.

Hinckley and Bosworth Local Plan 2001

The site is located in the countryside as defined in the adopted Local Plan.

Policy BE1 seeks to ensure a high standard of design in order to secure attractive development. Development should complement or enhance the character of the surrounding area with regard to scale, layout, mass, design and materials; incorporate design features that minimise the impact of the development on the environment; incorporate landscaping to a high standard; have regard to the needs of wheelchair users and should not adversely affect the occupiers of neighbouring properties.

Policy NE5 states that 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, or, for the extension of existing buildings and where it does not have an adverse effect on the appearance or character of the landscape; is in keeping with the scale and character of the existing buildings and general surroundings and is effectively screened by landscaping.

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

Appraisal:-

The extensions and alterations have been approved in principle, in the determination of the previous planning application (09/00940/FUL) therefore the main considerations with regards to this application are the impact of the proposed variations to the approved scheme on the design and external appearance of the site and surrounding countryside and neighbouring residential properties

Impact on Design and Appearance and Surrounding Countryside

The most significant amendments to the design and external appearance of the main building relate to the new main entrance area and entrance canopy. The proposed amendments to the finish of the entrance canopy and the main building incorporating more extensive use of glazed areas in the external walls are considered to improve the design and visual appearance of the entrance area and enhance it as a focal point for visitors in comparison to the previously approved scheme. The other amendments to the external elevations of the main building are not considered to have any significant material impact on the overall appearance of the site or the surrounding countryside and are therefore acceptable in visual terms.

The external walls of the approved storage building comprised of the use of a brick plinth with coloured profiled steel sheets over. The amendment proposes the use of coloured profiled steel sheets only. Whilst not considered to be an improvement in terms of the design of the building, as a result of the non-prominent location of the building to the rear of the site and screening of the storage yard area by existing trees and hedgerows and proposed earth bund and additional landscaping, the amended proposals are not considered to have a significant adverse impact on the visual appearance of the site or the surrounding countryside and are therefore acceptable in this case.

Impact on Neighbouring Properties

As a result of the separation distances involved and the screening of the site by existing trees and hedgerows together with proposed earth bund and additional landscaping, the proposed alterations to the design and appearance of the main building, entrance canopy and storage building are not considered to have an adverse impact on the visual amenities of the occupiers of neighbouring dwellings. In addition, the proposals include the relocation of the fuel tanks within the rear storage yard area further away from the west boundary and the nearest adjacent dwelling (Nine Acres) in order to allow for the provision within the site of an earth bund and additional landscaping as part of a noise mitigation scheme to address the requirements of another condition on the approved planning permission. These proposals are considered to improve the situation in respect of the amenities of the neighbouring dwelling and are therefore acceptable.

Other Issues

The proposed amendments will not have a material impact on highway related issues. The alterations to the ground levels around the entrance area retain inclusive ramped access for use by visitors with impaired mobility.

Conclusion

Overall, the amended proposals are considered to improve the design and appearance of the entrance canopy and main buildings and as a result will not have an adverse impact on the visual amenities of the site, surrounding countryside or neighbouring residential properties and are therefore acceptable. The relocation of the fuel tanks is considered likely to benefit the amenities of the occupiers of the neighbouring dwelling by enabling the provision of a noise mitigation scheme within the site and is therefore acceptable.

RECOMMENDATION :- Permit subject to the following conditions:-

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it would improve and enhance the visual appearance of the site and would not have an adverse effect on the visual amenities of the surrounding landscape, the amenities of the occupiers of neighbouring properties.

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

- 1 This permission relates to the variation of Condition 2 of planning permission reference 09/00940/FUL [the previous application] dated 1 June 2010, a copy of which is appended hereto and the conditions imposed by the decision notice in relation to the previous application shall be deemed to apply to the grant of permission in respect of application 10/00818/CONDIT [the current application] save in so far as they are amended by virtue of the decision notice in relation to the current application or where variations subsequent to the previous application have been approved in writing by the local planning authority.
- 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 1:2500 scale; Site Plan No. T615-115 Rev C; Floor Plan No. T615-118 Rev C; Elevations Plan No T615-119 Rev D; Levels Plan No. T615-123 Rev B; Storage Building Plan No. SK-06; Landscaping Site Plan No. 491/02 Rev B received by the local planning authority on 3 November 2010 and Storage Building and Landscaping Plan No. T615 120 Rev E received by the local planning authority on 10 December 2010.

Reasons:-

- 1 To define the permission and to ensure that all other conditions attached to the original consent still apply.
- 2 For the avoidance of doubt and in the interests of proper planning.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 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.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

Contact Officer:- Richard Wright Ext 5894

Item: 05
Reference: 10/00822/FUL
Applicant: Mr S Parkinson
Location: 134 Main Road Sheepy Magna Atherstone
Proposal: ERECTION OF THREE NEW DWELLINGS
Target Date: 16 December 2010

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it has generated 5 or more objections.

This application seeks full planning permission for the erection of a terrace of three two storey dwellings located to the north of 134 and 132 Main Road, Sheepy Magna.

The Site and Surrounding Area

Main Road is the principal route through the village and is defined by linear developments, predominately to the north side of the road. Main Road contains a varied mix of development including detached two storey farm houses and modern bungalows.

The application site comprises of a number of single storey agricultural brick and corrugated metal roofed outbuildings that are now redundant. The site is separated from no. 132 (a detached bungalow) by a brick wall approximately 3m in height. The rear of no.134 is separated by a low wall and a single storey out building. Access to the site is via an existing field access located to the east of no 132. To the north the application site is bound by the open countryside.

It is proposed to erect three, two bedroomed, terrace properties sited on a north to south axis, with an access from Main Road to the south. The field access will be maintained to the front of the proposed dwellings and parking to the properties located to the west and rear of the dwellings. A total of 6 off street parking spaces are provided, two per dwelling. The proposed dwellings have an eaves height of 4.5m and a ridge height of 7.7m. All of the proposed dwellings have arched brick soldier course details over the window and door openings.

Following concerns raised by officers in respect of the design of the dwellings, amended plans have been submitted and re-consultation has taken place.

Technical Documents submitted with application

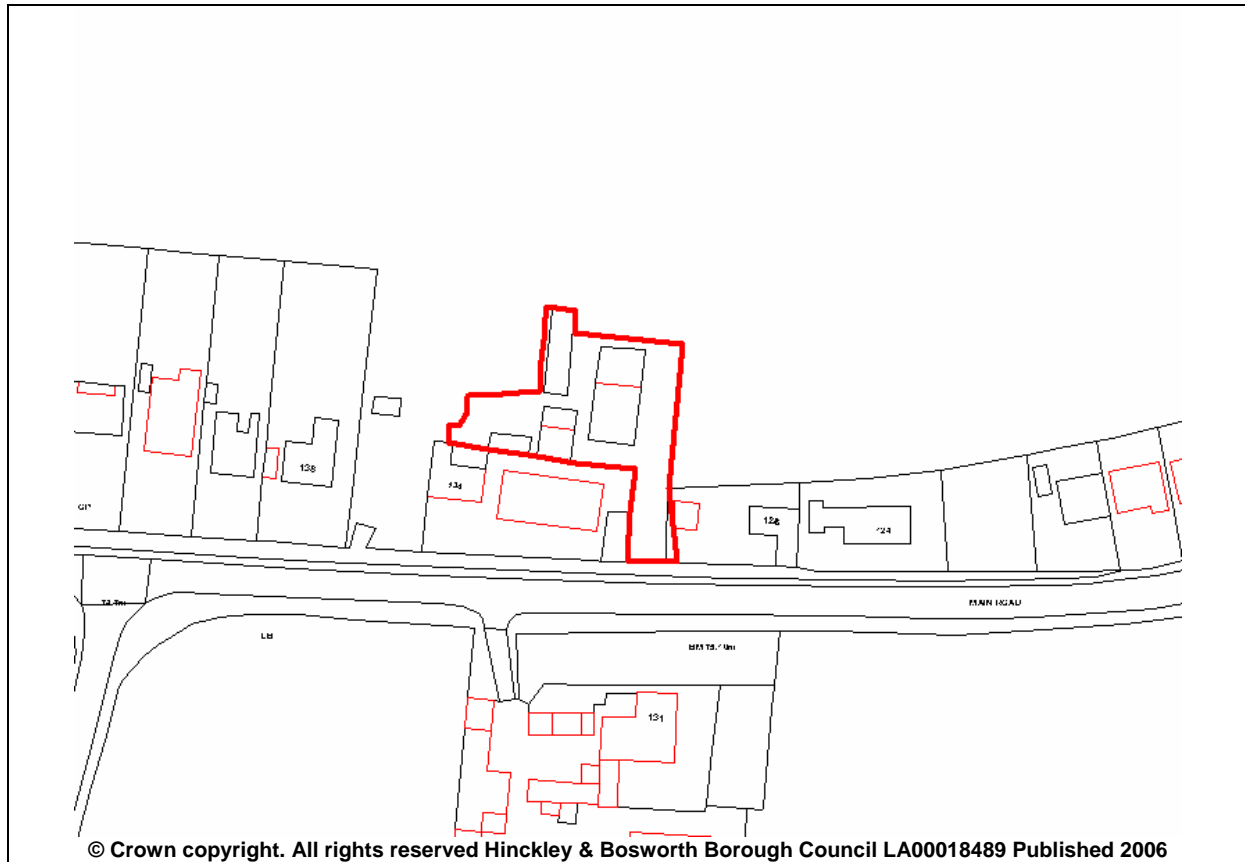
The application is supported by a design and access statement that describes the site and character of the area, describes the development as cottage style link attached dwellings. The report also describes the historical context of the site, and considers the design, access and landscape of the proposed development, and the relevant planning policy. It concludes that the site is within the defined settlement boundary and that the outbuildings are not of significant architectural or historic merit to warrant their retention or add significantly to the character of the area.

History:-

10/00817/FUL

Extensions and alterations to dwelling
(No 134)

Under consideration



Consultations:-

No objection has been received from:-

Directorate of Chief Executive (Archaeology)
Head of Community Services (Land Drainage).

No objection subject to conditions have been received from:-

Director of Environment and Transport (Highways)
Head of Community Services (Pollution).

Site notice and Press notice were displayed and neighbours notified.

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

- a) objects to the conversion of single storey barns to two storey dwellings
- b) the properties are outside the building line of surrounding dwellings
- c) 90 degree orientation of the proposed dwellings is out of keeping with other properties in the area
- d) loss of privacy due to two storey nature of the proposal
- e) land drain runs under proposed access and concerns that if this is damaged or blocked could result in flooding

- f) proposed access seems too narrow to allow two cars to pass, concern that this could result in a highway safety issue
- g) concerns about the building process and possible damage to property. If property damaged would like assurance that neighbouring property owners would be compensated
- h) close proximity of the development to other properties and boundaries
- i) traffic through the village is already busy and proposed access would be detrimental to highway safety
- j) there are other more suitable areas in the village for housing development
- k) the land to be development is Grade 2 agricultural land, a constraint on development according to the SHLAA
- l) proposal is contrary to Policy NE5
- m) proposal would have a detrimental effect on landscape features and conservation of local residents
- n) development will impact on view and privacy
- o) the proposal significantly alters the visibility and affects privacy of current residents
- p) concerns over surface water drainage
- q) 2 of the 3 proposed dwellings have insufficient size of gardens
- r) proposal will impact on the Limes (No 134 Main Street) but this has not been considered
- s) the Limes has not been lived in since ownership changed- just maximising profit of the site
- t) there is no local shop, school is over subscribed and very limited public transport, the proposal could increase the strain on local services
- u) development does not count as affordable housing
- v) entrance is close to junction with Ratcliffe Lane causing a danger to highway users
- w) as there is water on the site there is a possibility of flooding.

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

Parish Council
Head of Business Development and Street Scene Services (Waste Minimisation).

Due to the submission of amended plans the consultation period remains open at the time of writing and closes on 27 December 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 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.

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 decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010. Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies. The Government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS's letter of 27 May 2010 and that it should still be regarded as a material consideration. However, these two letters and the SoS's letter of 27 May 2010 need to be considered against the judgment handed down and it is clear from the judgement that the High Court has reinforced the primacy and significance of Regional Strategies in the current planning system. The Court held that if changes are to be made to the status of Regional Strategies then those changes will need to come in the form of primary legislation. Changes cannot be made in the manner proposed by the SoS and it is also reasonable on the basis of the judgment to conclude that the letters of 27 May and the two letters sent following the judgment, whilst they may be regarded as material considerations, have to be weighed against the clarity and force of the judgement and the current legislative position, and in your officers' opinion should not be given any weight. The advice remains unchanged notwithstanding that a further challenge is to be mounted by Cala next month and the SoS continues to maintain that his earlier correspondence constitutes a material consideration.

East Midlands Regional Plan 2009

This is the Regional Spatial Strategy for the East Midlands and provides a broad development strategy for the East Midlands. The following relevant policies apply to this proposal:

Policy 2 promotes better design including highway and parking design that improves community safety.

Policy 3 directs development towards urban areas with priority being given to making the best use of previously developed land.

Policy 43 seeks to improve safety across the region and reduce congestion.

Local Development Framework Core Strategy (2009)

Policy 12- Rural Villages, seeks to support existing services within villages defined as rural villages by amongst other things, supporting housing development within settlement boundaries, and specifically within Sheepy Magna to allocate land for the development of a minimum of 20 new homes.

Policy 24- Considers Sustainable design and technology that expects development in rural villages to meet the sustainability targets set out in Building a Greener Future.

Hinckley and Bosworth Local Plan 2001

The settlement boundary of Sheepy Magna as defined within the adopted Hinckley and Bosworth Local Plan dissects the eastern edge of the application site, resulting in the access drive not being within the settlement boundary.

IMP1- requires contributions towards necessary on site and off site infrastructure required to serve the development.

RES5- supports planning applications for residential development on unallocated sites providing the sites lies within the boundaries of an urban area and the siting, design and layout does not conflict with other plan policies.

BE1- Considers the design and siting of development and requires development amongst other things to complement or enhance the character of the surrounding area, incorporates landscaping to a high standard and does not adversely affect the occupiers of neighbouring properties.

NE2- States that planning permission will not be granted for development which would be likely to cause material harm through the pollution of the air or soil, or suffer harm from either existing or potential sources of air or soil pollution.

NE5- Seeks to protect the countryside for its own sake by only allowing certain forms of development and only where the proposal, amongst other things does not adversely effect the appearance or character of the landscape.

T5- Considers proposals that involve works in the highway against the highway design standards contained within the current edition of Leicestershire County Councils 'Highway Requirements for Development'.

REC3 - Seeks to provide appropriate level of outdoor play space for Children.

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance- New residential development, provides guidance on standards of design the Local Authority expect new development to meet

Supplementary Planning Document- Play and Open Space, provides further information on the policy supporting play and open space provision including a breakdown of the cost to maintain and provide various types of formal and informal open space.

Appraisal:-

The main considerations with regards to this application are the principle of the development; the scale, siting and appearance of the proposal; the effect on the character of the area; the effect on the amenities of neighbouring residents and highway safety.

Principle of Development

Policy RES5 of the Local Plan and Policy 12 of the Core Strategy supports residential development within the settlement boundary defined by the adopted Hinckley and Bosworth Local Plan, and if the proposal complies with other policies contained within the Local Plan and Core Strategy.

Policy 12 seeks a certain amount of development within the rural village of Sheepy Magna to support existing services and increase the population to increase the possibility of other service providers moving into the village to the benefit of existing and new residents. It is considered that small infill development like proposed within this application, contribute towards this aim and is therefore in compliance with Policy 12 of the adopted Core Strategy.

All but part of the proposed access of the proposed application site is within the defined settlement boundary. The portion that falls outside the settlement boundary would form part of the access which would be shared to provide an agricultural access to the fields located to the north of the proposal. The curtilage of the proposed dwellings are located within the defined settlement boundary. Details have been submitted of the landscape treatment to the boundaries of the site and this indicates a soft treatment of native hedgerow with a 1.1m post and rail fence. Particular attention is proposed to the sites frontage (east elevation) to ensure that the appearance of the portion of the site within the countryside remains simple, uncluttered and rural in nature.

It is considered that given the proposed landscape treatment, the function of the drive, to provide access to the agricultural field to the north of the site, and the nature of the proposal providing smaller dwellings, it is considered the proposal would not result in an unwelcome or unjustified intrusion into the countryside that would be contrary to the objectives of Policy NE5.

Objections have been received regarding the loss of Grade II agricultural Land. The site, apart from the access is within the settlement boundary and not used as such for agriculture, and replaces the footprint of former agricultural buildings. The proposal does not result in the significant loss of any agricultural land.

The existing buildings on the site, proposed to be demolished, consist of a mixture of brick, with tile or corrugated metal roofing, and corrugated metal buildings. It is considered that the buildings are not of significant architectural merit to warrant their retention. The removal of the buildings is therefore considered acceptable.

Layout and Design

The amended plans confirm that the proposal is for three two storey dwellings to form a terrace of small cottage style units. The proposal is orientated with the unified ridge to the roof running north to south at an angle of 90 degrees to other development in the vicinity of the site. Policy BE1 of the adopted Local Plan requires development to complement or enhance the character of the surrounding area. Development does not have to replicate the layout of the surrounding to complement its surroundings. It is common within the Borough's rural villages to find small terraces of dwellings, set back from the highway and sited at 90 degrees to the road frontage development. The proposal is sited on the same orientation to

the existing buildings on the site and whilst the orientation is different to that of surrounding properties it is not considered that, in this instance this would have such a detrimental effect on the character of the area to sustain a refusal of planning permission.

The proposed dwellings have been designed to resemble village cottages, and this is reflected in the design details of the doors, and windows. The design has been amended at officers request so that the rear elevation has as much detail as the front and the terrace reflects a modest cottage style. It is considered that the brick detailing and chimneys add character to the properties and therefore the design and appearance of the proposed dwellings are acceptable.

Objections have been received objecting to the scale of the proposal and how this is out of character with the existing structures. The height of the proposed dwellings is not considered to be excessively high for two storey dwellings, particularly given that the first floor is located within the roof space. The development of the site with three units is not considered to result in over development of the site and this is further justified by the appraisal detail above. It is therefore considered that the layout and design of the proposal is considered acceptable and in compliance with Policy BE1.

Highways

The Director of Environment and Transport (Highways) initially objected to the scheme due to Sheepy Magna being an unsustainable location for residential development. The adopted Core Strategy and Local Plan support development within the settlement boundary providing the proposal complies with other relevant policy. The Director of Environment and Transport (Highways) has since submitted revised comments withdrawing the objection subject to conditions. It is therefore considered that the proposal would not result in a highway danger to other road users. One of the conditions relates to the proposed access width and objections have been received questioning if the width is sufficient to enable two vehicles to pass each other. Details submitted with the application show the access of approximately 6m, and this is in excess of the County Council Standards and therefore sufficient to enable two vehicles to pass each other. Adequate off street parking is provided by the proposal.

Landscape

Details of the proposed landscaping have been submitted, these indicate a 1.1m post and rail fence to the perimeter of the site planted with a mix of native hedgerow species consisting of Thorn, Field Maple, Hazel and Sloe. This is considered an appropriate and suitable treatment to the perimeter of the site and would reduce the impact of the development on the countryside to the north and maintain the rural character of the back land site.

The landscaping plans also contain details of surface water drainage including the position of a soakaway subject to relevant percolation tests and gravel traps to the edge of the proposed parking area. These details are considered acceptable and appropriate sustainable drainage strategies for this proposal.

The Council's Supplementary Planning Guidance (SPG) suggests that two bedroomed properties should have private amenity areas of 60 square meters. The SPG goes on to state that the overall size of the garden should be in proportion with the type of dwelling and the general character of the area. Whilst two of the garden sizes are substandard, having areas of approximately 34 sq m and 55 sq m, the proposed dwellings do not have development to north, east or west and therefore considered to have fairly open aspects and the existing surrounding residential development has a mix of garden sizes. It is considered that given the proposed open aspect of the site, and the mix of garden sizes in the area, the

substandard garden areas would not significantly affect the amenities of future occupiers to sustain a reason for refusal.

Impact on Neighbours

The nearest property and therefore most likely to be influenced by the proposal is 132 Main Road. This is a detached bungalow with a small amenity area to the rear separated from the application site by a high brick wall. The proposed dwellings are orientated with the ridge running north to south resulting in the rear windows facing along the rear boundary of No. 132, rather than facing the rear elevation of this dwelling. Whilst there would be a small degree of overlooking from the proposal this would be at an angle thus reduces the impact of overlooking in this instance. It is therefore considered that the proposed dwellings would not adversely impact upon the privacy of residents of this property to sustain a refusal of planning permission.

Due to the orientation of the proposal to other dwellings and the distances between the proposal and other properties in the vicinity, it is not considered that the proposal would have a detrimental impact on any other neighbouring residents.

The proposed dwellings would be located to the north of surrounding residential properties and have a distance of 14m between the blank side elevation and the rear of 132 Main Road. The day light and sunlight of this property is already compromised by a 3m brick wall sited 3m from the rear elevation along the whole length of the northern boundary. It is considered that given the proposal only overlaps with 2.5m of the rear elevation of no.132 it is considered that the existing wall would have a greater overbearing impact on this dwelling than the proposed development and therefore the three residential properties are not considered to result in an overbearing form of development that would detrimentally affect the amenities of neighbouring residents.

The distance and orientation between the proposed dwellings and 134 Main Road is considered too great for the proposal to result in an overbearing impact on the property or to significantly overlook to the detriment of the amenities of residents. It is considered that disturbance resulting from vehicle movements entering and exiting the parking area located to the north of no. 134 would not be significant to sustain a reason for refusal.

Objections have been received objecting to the loss of open views from the rear of properties, however this is not a material planning consideration.

Developer Contributions

Policies IMP1 and REC3 supported by SPD on Play and Open Space, sets out a requirement for new residential development to contribute towards provision of informal play and open space. The only open space within Sheepy Magna is located off Brookside Close. This is over 400m distance from the application site and therefore outside the catchment area for informal open space, hence a contribution can not be requested in this instance.

The proposal would provide three small cottage style dwellings appropriate for starter or smaller households, and whilst not affordable dwellings they would meet a market need. The policy threshold for the provision of affordable housing is not met in this case.

Other Issues

Objections have been received referring to damage to drains and neighbouring properties. The maintenance of the drain to the front of the property is the responsibility of the land owner and not a material planning consideration. Concerns have also been raised regarding

any damage to adjoining properties during the building works, however this is covered by the Party Wall Act 1996, and not a material planning consideration.

Inline with Policy 24 of the Adopted Core Strategy, the residential units to be constructed on this site will need to 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.

The Head of Community Services (Land Drainage) raises no objection to the proposal but advises on drainage details for the development of the site. 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, it has been agreed locally that drainage details will no longer be required to 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.

Conclusion

The proposed development is principally located within the Sheepy Magna settlement boundary as defined by the adopted Hinckley and Bosworth Local Plan, other than for the access which is located within the countryside. It is considered that the proposal is of appropriate form, scale and design for its location and would not significantly affect the amenities of local residents. It is therefore considered the proposal complies with the relevant policies within the adopted Core Strategy and Local Plan and therefore is recommended for approval.

RECOMMENDATION :- Permit subject to the following conditions:-

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development by virtue of the scale, siting being principally within the settlement boundary, the design would not adversely affect the character or appearance of the street scene or the amenities of the neighbouring residents. It is considered that the proposal would be acceptable in terms of highway safety and therefore would be in accordance with the development plan.

Local Development Framework Core Strategy 2009 - Policy 12, Policy 24

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:-
243/21- 01 rev D, 02 rev C, 03 rev C, 04 rev D, 05 rev A 100 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 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 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the Highway boundary and shall be hung so as to open inwards only.
- 5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1; Classes A, B, C, and E; shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.
- 6 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.
- 7 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.
- 8 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details shown on drawing number 243/21/100 REV A within the first planting season following occupation of the first dwelling. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 9 No development shall take place until a plan showing the sites access (including details of width, geometry, visibility and surfacing) with Main Road has been submitted to and approved in writing by the Local Planning Authority. The approved access arrangement shall be fully implemented before the first occupation of any dwelling hereby approved.
- 10 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.

Reasons:-

- 1 To 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 a vehicle to stand clear of the highway whilst the gates are opened/ closed, to ensure the free and safe passage of traffic in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure that the occupiers have adequate outdoor amenity areas and to protect the visual impact of future proposals from the countryside to the north of the development in accordance with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 6&7 To protect the amenities of future occupiers of the site from any existing contamination in accordance with Policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 8 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 9 To ensure a safe access to the public highway in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 10 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 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.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.
- 6 In relation to condition advice from Health and Environment Services is attached to this decision notice which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.

Contact Officer:- Sarah Fryer Ext 5680

Item: 06
Reference: 10/00823/OUT
Applicant: Ms J Allen
Location: 42 Britannia Road Burbage
Proposal: Demolition of No.42 and erection of four detached dwellings
Target Date: 10 January 2011

Introduction:-

The application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as objections have been received from more than five addresses.

Application Proposal

This application seeks outline planning permission for a residential development of four dwellings and detached garages on the land to the south of Britannia Road, Burbage. Layout and access are the only matters for determination at this stage, with all other matters being reserved for approval at a later date.

The application proposes the demolition of the existing two storey dwelling and erection of 4 no. two storey dwellings and detached garages. Whilst not formally seeking approval for scale at this stage, the application sets out the approximate scale parameters; 7.8 metres in height to the main ridge and 6.25 metres to the rear extension ridge with footprints of each dwelling of 10 metres by 7.5 metres with 4 metres by 4 metres to the rear.

The development will be served by the existing dwellings access from the south from Britannia Road, which also serves the rear paddock and the neighbouring dwelling no. 40 Britannia Road . Double detached garages are proposed to the rear of the dwellings.

Following concerns raised by Officers, amended plans were received showing 2 metre set back to the main access with Britannia Road which provides visibility splays in both directions and re-consultation was undertaken with the Director of Environment and Transport (Highways).

The Site and Surrounding Area

No. 42 Britannia Road is set back from the road frontage, with the existing access to the north. The site is adjoined to the west by neighbouring dwelling no.40 Britannia Road and the south of the site has been used as a paddock. The ground levels fall to the south of the site and there are field boundary hedgerows and trees around the perimeter. There is public right of way through the site running northeast to southwest along the existing access to No.40.

Technical Documents submitted with application

The application is accompanied by a Design and Access Statement and Ecology Report.

The Design and Access Statement states that the proposed dwelling's positions and layouts are similar to other recently development sites, confirms that the access is approximately 4.5 metres wide which allows vehicle passing with the access to the rear will be via a 3 metres wide access and is set away from the boundary.

The Ecology Report concluded that there was no evidence of any ecological interests or protected species found during inspection.

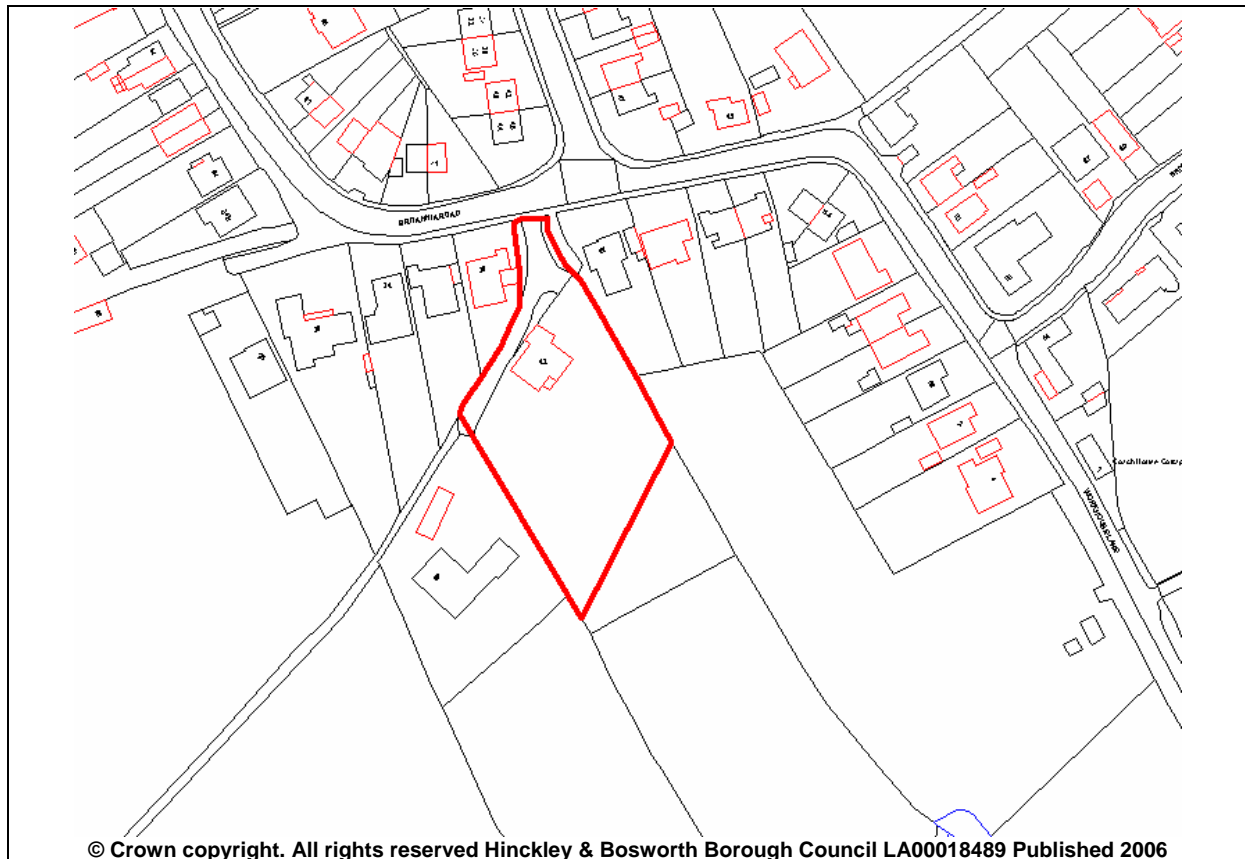
History:-

91/00718/4

Extension to Dwelling

Permitted

22.08.91



Consultations:-

No objection has been received from:-

Environment Agency
Director of Environment and Transport (Rights of Way)
Head of Community Services (Land Drainage)
Head of Community Services (Pollution).

No objection subject to conditions have been received from:-

Directorate of Chief Executive, LCC (Ecology)
Director of Environment and Transport (Highways).

Objections from Director of Chief Executive (Archaeology)

Site notice displayed and neighbours notified.

Six letters of objection have been received including one from the Parish Council on the following grounds:-

- a) constitutes overdevelopment, is not in keeping with the area
- b) scale is too large and 2 storey dwelling is not in character with bungalows sited to either side
- c) contravenes new planning guidance in PPS3
- d) contravenes mature areas and guidance notes GN1, 2, 3, 5 and 8 of Burbage Village Design Statement
- e) seen as garden grabbing
- f) access drive not wide enough
- g) current drive has poor visibility
- h) current junction has poor visibility
- i) increase in level of traffic will be detrimental to highway safety
- j) danger to pedestrians gaining access to the public footpath
- k) detrimental effect on the countryside
- l) settlement boundary is drawn incorrectly.

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

Severn Trent Water
Ramblers Association.

The consultation period remains open at the time of writing and closes on 16 December 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 1 (PPS1): 'Delivering Sustainable Development' 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 (PPS3): '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 13 reflecting policy in PPS1 states that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to improve the character and quality of an area and the way it functions, should not be accepted. Paragraph 16 lists matters to be considered when assessing design quality; this includes assessing the extent to which the proposed development is well integrated with and complements, the neighbouring buildings and the local area more generally in terms of scale, density layout and access. PPS3 has very recently been updated to specifically refer to garden land not being Brownfield land and Paragraph 47 has been amended and 30 dwellings per hectare is no longer a national indicative minimum density to allow local planning authorities to develop their own range of policies whilst having regard to the continued need to develop land in the most efficient manner.

Paragraph 71 states that where the LPA 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 PPS3 and considerations in paragraph 69. Paragraph 69 requires the LPA, to ensure that the proposed development is in line with planning for housing objectives, reflects the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives. In addition, development should provide high quality housing of a good mix and make effective and efficient use of land.

Planning Policy Statement 5 (PPS5): 'Planning and the Historic Environment' sets out how applications affecting heritage assets should be determined, it requires Local Planning Authorities to assess impacts on the historic environment. Policy H12 refers to the policy principles guiding the recording of information related to heritage assets and Paragraph HE 12.3 states that Local Planning Authorities can use appropriate planning conditions or obligations in order to achieve this.

Planning Policy Statement 9 (PPS9): 'Biodiversity and Geological Conservation' includes the broad aim that development should have minimal impacts on biodiversity and enhance it where possible.

Planning Policy Guidance Note 13 (PPG13): 'Transport' sets out national transport planning policy. Paragraph 6 states that Local Planning Authorities should accommodate housing principally within urban areas and promotes accessibility to services by public transport, walking and cycling and reduces the need to travel. Paragraph 29 states that when thinking about new development the needs and safety of the community should be considered and addressed in accompanying Transport Assessments.

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 decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010. Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies. The government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS's letter of 27 May 2010 and that it should still be regarded as a material consideration. However, these two letters and the SoS's letter of 27 May 2010 need to be considered against the judgment handed down and it is clear from the judgement that the High Court has reinforced the primacy and significance of Regional Strategies in the current planning system. The Court held that if changes are to be made to the status of Regional Strategies then those changes will need to come in the form of primary legislation. Changes cannot be made in the manner proposed by the SoS and it is also reasonable on the basis of the judgment to conclude that the letters of 27 May and the two letters sent following the judgment, whilst they may be regarded as material considerations, have to be weighed against the clarity and force of the judgement and the current legislative position, and in your officers' opinion should not be given any weight.

The advice remains unchanged notwithstanding that a further challenge is to be mounted by Cala next month and the SoS continues to maintain that his earlier correspondence constitutes a material consideration.

East Midlands Regional Plan 2009

This is the Regional Spatial Strategy for the East Midlands and provides a broad development strategy for the East Midlands. The following relevant policies apply to this proposal:

Policy 2 promotes better design including highway and parking design that improves community safety.

Policy 3 directs development towards urban areas with priority being given to making the best use of previously developed land.

Policy 43 seeks to improve highway safety across the region and reduce congestion.

Local Development Framework Core Strategy (2009)

Policy 4: 'Development in Burbage' identifies the needs to allocate land for the development of a minimum of 295 dwellings focused primarily to the north of Burbage and adjacent to the Hinckley settlement boundary to help support the Hinckley sub-regional centre and to cater for a range of house types as supported by Policy 15 and Policy 16 (where applicable).

Policy 24: 'Sustainable Design and Technology' expects residential developments Burbage meet a minimum Code level 3 of the Code for Sustainable Homes.

Hinckley and Bosworth Local Plan (2001)

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

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

Policy BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Development should ensure adequate highway visibility for road users and adequate provision for on and off street parking for residents and visitors together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

Policy BE14: 'Archaeological Field Evaluation of Sites' states that where an initial assessment indicates that archaeological remain may exist, the Local Planning Authority will require the prospective developer to arrange from an archaeological field evaluation to be carried out by a professionally qualified archaeological organisation or archaeologist. The results of the evaluation should be made available to the Local Planning Authority before it determines the application.

Policy BE15: 'Preservation of Archaeological Remains in Situ' states that when the archaeological field evaluation indicated the presence of important archaeological remains and the local planning authority considers that their preservation in situ is justified, it will apply planning conditions to any planning permission requiring the remains be left in situ and any damage to the remains to be avoided or minimised through appropriate design, layout, ground levels, foundations and site work methods.

Policy BE16: 'Archaeological Investigation and Recording' states that the Local Planning Authority will seek to enter into a legal agreement or impose conditions requiring that satisfactory archaeological investigation and recording be carried out.

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

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

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance: New Residential Development provides a series of standards that new residential development should achieve in respect of design, layout, impact on neighbours and amenity space. It specifically states that the appropriate density of the development will be determined by the general character of the surrounding area.

Supplementary Planning Document- Play and Open Space, provides further information on the policy supporting play and open space provision including a breakdown of the cost to maintain and provide various types of formal and informal open space.

Burbage Village Design Statement identifies the land as 'Britannia Road Area' within Zone 2: GN2: Design Principles states that houses should be matched in terms of design and scale with neighbouring properties.

GN6: Leisure and Recreation states that public footpaths are important amenity features that should be conserved, maintained and kept accessible for all.

Appraisal:-

This is an outline application for layout and access only; therefore appearance, landscaping and scale do not form part of the application and will be considered at the reserved matters stage. The main considerations with regards to this application are the principle of development, layout, access and highway issues and other matters.

The Principle of Development

The vast majority of the application site is within the settlement boundary of Burbage as defined on the Adopted Hinckley and Bosworth Local Plan Proposals Map. A very small section of the application site (southern edge) is outside of the settlement boundary and within the countryside. It should be noted that the built development will be restricted to the area inside the settlement boundary, and therefore there is a presumption in favour of development subject to all other planning matters being appropriately addressed.

Planning Policy Statement 3 (PPS3) was revised on 9th June 2010 and removed private residential gardens from the definition of previously developed land and removed the national indicative minimum density of 30 dwellings per hectare. The exclusion of private residential gardens from the definition of 'Brownfield' land was considered a reaction to the increasing pressures placed on local communities when developers propose the demolition of large dwellings and the construction of a number of dwellings in its place. The subsequent letter from the Chief Planning Officer on 15th June 2010 makes clear these amendments provide Local Authorities the opportunity to prevent over development and to determine for themselves the best locations and types of development. It is also interpreted that the changes are to primarily prevent over development within residential areas that are considered out of character.

Following the changes to PPS3, the application site is considered to predominantly fall within a 'Greenfield' classification. The Council has considered that where development falls within this classification but is within a defined settlement boundary, that character density, mass, layout and design should be fundamental to the determination of the application alongside the development being carried out in accordance with relevant plan policies.

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

Local Plan Policy BE1 seeks a high standard of design to safeguard and enhance the existing environment through a criteria based policy. These criteria include ensuring the development 'complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, design, materials and architectural features'. This consideration ties in with the intention of the amendments to PPS3 for local authorities to prevent overdevelopment.

The Council currently does not have a five year housing supply and as such this is a material consideration that should be given weight in the determination of this application. This must however, as stated in Paragraph 69 of PPS3 be balanced carefully and consideration should be given to the number of dwellings proposed and the impact this will have on the housing supply and the design policy requirements discussed above.

Layout

The consideration of the impact on character has always been a material consideration in the determination of planning applications, even before the revised version of PPS3 came into force, through consideration of the requirements of Policy BE1.

The amendments to PPS3 further strengthen the issue of impact on character and the pattern of development.

This area to the south of Britannia Road is largely characterised by detached bungalows which from frontage development. Whilst neither the existing subject dwelling or the neighbouring No. 40 fit this pattern they are very much exceptions to the pattern and grain of the development in the immediate locality. These dwellings are also single storey in scale and therefore have a more subordinate backland relationship (to the dominant character of Britannia Road) that is typically found on the edge of a settlement.

As such, it is considered that the character of the area to the rear of the road frontage is the defining character in the locality and the area to the rear of the frontage development at

Britannia Road is characterised by large scale single residential dwellings within large residential amenity areas.

The proposed dwellings by virtue of their backland location, number, layout, scale and footprint will result in a pattern of development that fails to respect the spacious and linear frontage character of the surrounding area and will therefore be harmful to the character of the locality and the countryside to which it bounds.

The proposal will accordingly result in development that is clearly out of keeping with the character of the surrounding area and as such would be contrary to the requirements of Policies BE1 and RES5 of the Adopted Local Plan, the Council's SPG on New Residential Development and the considerations outlined in Paragraph 69 of PPS3.

Access and Highway Issues

The Director of Environment and Transport (Highways) states that the existing access onto Britannia Road suffers from very poor visibility and request that the applicant provide a plan showing how the visibility standards set out in the 6C's Design Guide can be met. The applicant has since addressed the issues in respect of visibility through the submission of an amended plan.

Following re-consultation The Director of Environment and Transport (Highways) considers that adequate visibility onto Britannia Road can be provided and as such has no objection to the proposal, subject to the imposition of planning conditions.

Director of Environment and Transport (Rights of Way) states that the applicant should be made aware that necessary authority for enabling vehicular rights to be exercised over the footpath will be required and that the line of the footpath should not be affected by any operations associated with the development and free access can be exercised safely by pedestrians at all times.

As such, the impact upon highway safety is not considered to be significant detrimental to sustain a refusal of permission in this case.

Other Matters

The Director of Historic and Natural Environment (Archaeology) states that there is the likelihood that buried archaeological remains will be adversely affected by the development and that the archaeological implications cannot be adequately assessed on the basis of the current available information. It is recommended that the authority defer determination of the application and request that the applicant complete an Archaeological Impact Assessment.

The deferment of the application is not an option in the current circumstances and there is no agreement with the applicant that further site works will be undertaken. On this basis and given the policy requirements of BE16 and the guidance contained with PPS5 the application should be refused on the basis that it fails to demonstrate that archaeological concerns will not be adversely affected.

In accordance with Policy 24 of the Core Strategy any new dwelling within Burbage should be constructed to Level 3 of the Code for Sustainable Homes. There is no information submitted with the application that demonstrates that this is the case or has been considered.

In accordance with Policies IMP1 and REC3 of the Adopted Local Plan and with the Adopted Supplementary Planning Document: Play and Open Space, a developer contribution towards

the pressure the development will place upon the Britannia Road Recreation Ground will be required should the development be acceptable. In the most recent Play and Open Space Audit the Britannia Road Recreation Ground scored achieved a quality score of 37.5% and thus there is a reasonable and demonstrated need for improvements to the facility. The application as submitted makes no reference to addressing this deficiency and there is no planning obligation submitted to secure and deliver any contribution.

Conclusion

In conclusion, Policy RES5 of the adopted Local Plan allows for residential development within the settlement boundary; however this policy also requires that the siting, design and layout of the proposal do not conflict with the relevant plan policies. The area to the rear of the frontage development at Britannia road is characterised by large scale single residential dwellings within large gardens. The proposed layout of the 4 no. dwellings in the former garden area of No. 42 Britannia Road is considered to result in a scheme which inappropriately overdevelops the site. Accordingly, it is considered that the proposal conflicts with guidance contained in PPS3, SPG on New Residential Development and Policy BE1 of the adopted Local Plan, which would consequentially make the scheme contrary to Policy RES5 of the adopted Local Plan.

Given the identified harm to the character of the area, the relatively small number of dwellings (4.no) provides no overriding justification in favour of the development on a 5 year land supply basis.

RECOMMENDATION :- REFUSE, for the following reasons:-

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

Reasons:-

- 1 In the opinion of the Local Planning Authority, the proposal constitutes an uncharacteristic form of development of this former residential garden site. By virtue of its position, layout and scale, the proposal fails to respect the established character of the surrounding area and would therefore not complement or enhance the surrounding area. Therefore the development would be contrary to Policies BE1 and RES5 of the adopted Hinckley and Bosworth Local Plan, the Council's Supplementary Planning Guidance on New Residential Development and the guidance contained within Planning Policy Statement 3: Housing.
- 2 In the opinion of the Local Planning Authority the applicant has failed to demonstrate that the proposed development would not detrimentally affect Archaeological remains likely to be within the site, contrary to policies BE13, BE14, BE15 and BE16 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 5.
- 3 In the opinion of the Local Planning Authority the applicant has failed to demonstrate that the proposed development would be built to Code Level 3 of the Code for Sustainable Homes, contrary to Policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy (2009).
- 4 In the opinion of the Local Planning Authority, the lack of any definitive measures to address the increase in pressure placed on the play and open space facilities of the local area by the proposed development would not accord with Government Guidance Circular 5/05, Policies REC3 and IMP1 of the adopted Hinckley and Bosworth Local Plan, and the Supplementary Planning Document on Play and Open Space 2008.

Contact Officer:- Ebony Mattley Ext 5691

Item: 07

Reference: 10/00847/FUL

Applicant: Mr Richard Anderson

Location: Flude House Rugby Road Hinckley

Proposal: MIXED USE DEVELOPMENT INCLUDING RETENTION,
REFURBISHMENT AND EXTENSION TO EXISTING BUILDINGS AND
DEMOLITION OF FACTORY BUILDINGS TO CREATE 48 DWELLINGS
AND 6 APARTMENTS WITH ASSOCIATED PARKING

Target Date: 25 January 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is a major development.

Application Proposal

This application is a resubmission of a previously approved scheme (09/00810/FUL) which proposed the redevelopment of a former manufacturing site on the corner of Hawley Road and Rugby Road for a mixed use development comprising a range of commercial uses (A1, A2, A3, D1, and B1) and 56 units of residential development and associated works.

The amendments introduced as part of this submission include: changes to the range of commercial uses omitting the A1 use, the introduction of a three storey infill extension connecting the former Fludes building to the substation building (including internal and external alterations), a reduction in the number of residential units to 54 together with modifications to the layout of the residential element of the proposal.

The Site and Surrounding Area

The application site is 2.14 hectares and lies on the south west of Hinckley Town Centre. The site occupies a prominent location on the gateway into the town centre. The site is predominantly vacant and currently comprises various buildings which previously provided 758sqm of office development, 9,778sqm industrial development and 1,914sqm of warehousing. A variety of uses including residential, commercial, and retail bound the site. The land levels across the entire site are varied with a rise of approximately 3 metres from west to east along Willowbank Road with the existing buildings constructed on a series of plateaus separated by retaining walls.

Technical Documents Submitted with the Application

A number of technical reports/assessments were submitted with the application they include:-

The Design and Access Statement sets out the design principles that informed the original layout of the scheme and explanation of the requirement for modification of the approved scheme. It explains the complex land ownership of the site, how this has established the phasing scheme enabling delivery, and a justification for the uses proposed.

The Affordable Housing Statement sets out the provision for 100% affordable housing on site, and confirms that an RSL partner has been identified and involved in the pre application process.

The Transport Assessment concludes that the development proposals will have no material impact on the operation of the local highway network and that there are no reasons why this development should not be approved on highways or transportation grounds.

The Ecology Statement prepared by FPRC confirms that there is no evidence of bats within any of the buildings and no bats were observed entering or emerging from the buildings.

The Arboricultural Statement prepared by FPRC identifies the trees within the site and categorises them in terms of importance. The report is linked to the initial landscaping proposal submitted with the application.

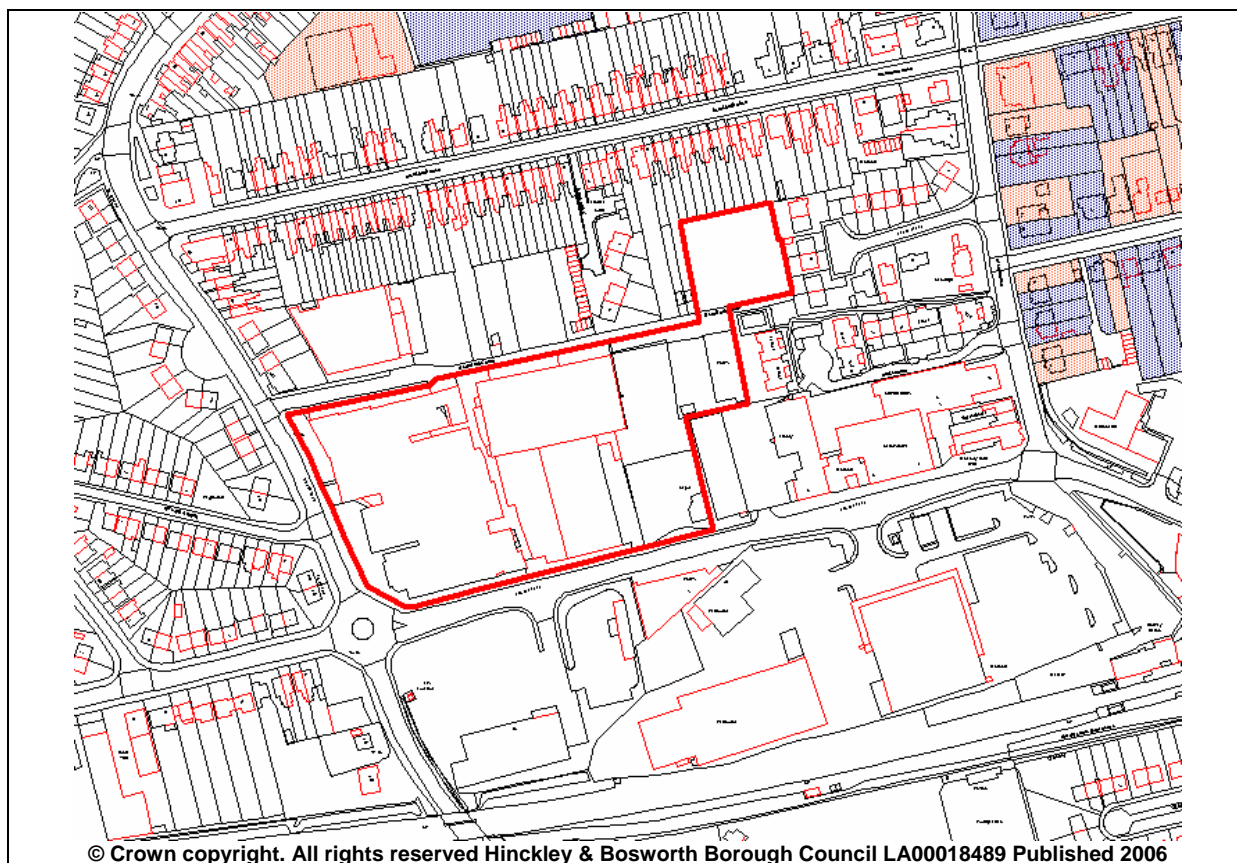
The Economic Viability Statement includes a Legal Opinion on development contributions and provides details of the contribution requirements and concludes that the residual land value of the proposed development is already below the existing use residual land value when taking into account the levels of s106 contribution (including affordable housing) proposed in the heads of terms.

The Flood Risk Assessment prepared by BWB Consulting concludes that the site is not considered to be at significant risk of flooding.

The Environmental Risk Assessments submitted include Geotechnical, Phase I and II Assessments prepared by Geodyne Limited together with Phase II Exploratory Investigation and Noise Assessments prepared by WBM which conclude that from the results of the surveys that road traffic is the dominant noise source.

History:-

09/00810/OUT	Mixed use development including retention, Refurbishment and extension to existing Buildings and demolition of factory buildings to create 50 dwellings with 6 apartments with associated parking	Approved	06.04.10
05/01207/OUT	Residential development and associated works	Refused	25.01.06
98/00559/OUT	Erection of a food store with vehicular and pedestrian access, car park and service	Dismissed at Appeal	



Consultations:-

No objections have been received from:-

E-On (Central Networks)

The Leicestershire Constabulary Crime Reduction Officer.

No objection subject to conditions has been received from:-

Director of Environment and Transportation (Highways)

Environment Agency

Head of Community Services (Land Drainage)

Head of Community Services (Pollution).

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

- a) Chief Executive (Ecology) has no requirements.
- b) Director of Children and Young People's Service (Education) states that there is surplus capacity in the local high school however, requires for an education contribution of £236,963.92 for Hinckley Westfield Infant and Westfield Junior Schools and John Cleveland College based on 50 houses with two or more bedrooms.
- c) Director of Highway's Transportation and Waste Management (Civic Amenity) requires developer contributions of £2,440 for new or improved Civic Amenity Site Infrastructure for the nearest site at Barwell.

- d) Director of Adults and Communities (Libraries) requires £3,170 for books and equipment at Hinckley Library on Lancaster Road.
- e) Director of Highway's Transportation and Waste Management (Highways) require:-
 - i) Travel Packs (1 per dwelling) @ £49 per pack (if supplied by LCC)
 - ii) 6 month bus passes (2 per dwelling) @ £535.62 per pass (if supplied through LCC)
 - iii) 6 month bus passes (1 per employee) @ £535.62 per pass (if supplied through LCC)
 - iv) Provision of a timetable case to existing bus stop on Hawley Road @ £95
 - v) Contribution toward highway improvements at the Rugby Road/Hawley Road/Westfield Road roundabout junction.

Chief Executive, LCC (Ecology) agree with the submitted ecology statement in that there are no constraints to the removal of the buildings and the trees on the site.

Chief Executive, LCC (Archaeology) request submission of historic building assessment.

Press and site Notices posted, neighbours notified. One letter of representation has been received:-

- a) questions relating to opening hours and deliveries of the restaurant
- b) questions capacity at the local school
- c) locals do not want traffic lights at roundabout
- d) questions capacity of drainage
- e) All Hire site does not belong to the developer
- f) All Hire site contains flammable/explosive gases
- g) impact on existing access
- h) impact on water table.

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

Leicestershire Fire and Rescue
 Primary Care Trust
 Severn Trent Water
 Head of Business Development and Street Scene Services (Waste Minimisation).

Policy:-

Central Government Guidance

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

Planning Policy Statement 3 (PPS3): 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to ensure that housing developments are in suitable locations, which offer a good range of community facilities, with good access to jobs, key services and infrastructure. Paragraph 12 states that good design is fundamental to the development of high quality new housing. Paragraph 16 outlines matters to consider when assessing design quality and includes the extent to which the proposed development is easily accessible and well-connected to public transport and community facilities and services.

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

Planning Policy Statement 9 (PPS9): 'Biodiversity and Geological Conservation' includes the broad aim that development should have minimal impacts on biodiversity and enhance it where possible.

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

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

Regional Policy

The decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010. Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies. The government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS's letter of 27 May 2010 and that it should still be regarded as a material consideration. However, these two letters and the SoS's letter of 27 May 2010 need to be considered against the judgment handed down and it is clear from the judgement that the High Court has reinforced the primacy and significance of Regional Strategies in the current planning system. The Court held that if changes are to be made to the status of Regional Strategies then those changes will need to come in the form of primary legislation. Changes cannot be made in the manner proposed by the SoS and it is also reasonable on the basis of the judgment to conclude that the letters of 27 May and the two letters sent following the judgment, whilst they may be regarded as material considerations, have to be weighed against the clarity and force of the judgement and the current legislative position, and in your officers' opinion should not be given any weight. The advice remains unchanged notwithstanding that a further challenge is to be mounted by Cala next month and the SoS continues to maintain that his earlier correspondence constitutes a material consideration.

Regional Spatial Strategy for the East Midlands provides a broad development strategy for the East Midlands. Policy 3 identifies Hinckley as a Sub-Regional Centre and sets out how development and economic activity should be distributed regionally. Policy 22 sets out priorities for town centres and retail development and encourages Local Planning Authorities to bring forward retail, leisure, office and residential development based on identified need as set out in PPS6. Policy 43 sets out the regional transport objectives, supports the regions regeneration priorities and seeks to improve safety and reduce congestion.

The East Midlands Regional Plan (adopted March 2009) provides the development strategy for the East Midlands up to 2026. Policy 2 promotes better design including highway and parking design that improves community safety. Policy 3 directs development towards urban areas with priority being given to making the best use of previously developed land. Policy 43 seeks to improve safety across the region and reduce congestion.

Local Policy

The site is identified in the adopted Hinckley and Bosworth Local Plan as an employment site, in The Hinckley Town Centre Renaissance Masterplan and the Submitted Hinckley Town Centre Area Action Plan (AAP) as a potential mixed use development site. The Area Action Plan has been approved by the Council following the required consultation and it is going to public examination in December 2010.

Local Development Framework Core Strategy (2009)

Policy 1: Development in Hinckley supports Hinckley's role as a sub-regional centre and sets out the criteria to achieve this.

Policy 5: Transport Infrastructure requires interventions to support the additional development proposed in and around the Hinckley sub regional centre.

Policy 15: Affordable Housing sets the criteria for the proportion of 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: Green Space and Play Provision sets the standards for green space and play provision.

Policy 20: Green Infrastructure sets strategic interventions

Policy 24: Sustainable Design and Technology sets the criteria for residential homes and office development.

Hinckley and Bosworth Local Plan (2001)

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

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

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

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

Policy NE14 'Protection of surface waters and groundwater quality' protects the water environment.

Policy T5 refers to the application of appropriate standards for highway design and parking targets for new developments unless a different level of provision can be justified. Leicestershire County Council's document 'Highways, Transportation and Development' provides further design guidance.

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

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

Policy REC3 requires the appropriate level of open space to be provided within development sites. Alternatively, a financial contribution can be negotiated towards the provision of new recreational facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

Supplementary Planning Guidance/Documents

The Hinckley Town Centre Renaissance Masterplan (Area 6) identifies the site for potential mixed use development incorporating new residential and commercial development providing a new gateway to the town centre.

Hinckley Town Centre Area Action Plan (Proposed Submission Document) Policy 6 - Rugby Road/Hawley Road sets out the issues and opportunities and identifies the key aspirations for redevelopment of the site.

The Borough Council's Supplementary Planning Document: Hinckley Town Centre Strategic Transport Development Contributions provides guidance on infrastructure requirements.

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

The Play and Open Space Guide Supplementary Planning Document (2008) provides further guidance to developers in respect of the different types of open space and the level of financial contributions required.

The Employment Land and Premises Study 2010 identifies the site as a moderate/low grade employment area and recommends 25% retention for employment with 75% of other uses allowed.

Appraisal:-

The principle of development of this site is well established. It is allocated for employment in the adopted Hinckley and Bosworth Local Plan, identified as a site for a mixed use development in the Hinckley Town Centre Renaissance Masterplan (Area 6) and in the Hinckley Town Centre Area Action Plan (Proposed Submission Document) and benefits from a grant of planning permission 09/00810/FUL for a very similar development. Therefore, the main considerations with regards to this application are the impact of the proposed variations to the approved scheme on the design and external appearance of the site and neighbouring residential properties, highways and the associated implications, viability and infrastructure contributions.

The previous report to Planning Committee dated 16 March 2010 is appended for reference.

Design

The ownership of the site remains the same as reported in the previous submission therefore the phasing of the development remains relevant in providing a comprehensive development on this site.

The mix of uses has been revised since the previous submission to include 54 residential units, comprising 48 houses and 6 apartments and 6,723 sq m of commercial space including B1, D1 and A3 uses.

The most significant alterations to the commercial element of the scheme include the introduction of a predominantly glazed three storey infill extension which links the former Fludes building to the substation building, the omission of the glazed projecting element which was proposed forward of the substation building and changes to the roof design. The development remains in line with the aspirations of the Masterplan and the Area Action Plan, providing a landmark corner, ranging between 3-5 storeys in height with active frontages at ground floor.

Modifications have been made to the internal road layout due to the level changes within the site. These modifications have resulted in a reduction in the number of residential units from 56 to 54. The units comprise a mix of two storey and three storey units. The residential layout remains guided by the sloping nature of the site and aims to achieve 100% Secure by Design compliance.

Consideration has also been given in the design of the units to achieving 100% compliance with Lifetime Homes interiors criteria and Code for Sustainable Homes Level 3 as this is a requirement of the RSL which is to take on the residential element of the site.

The modifications to the scheme are considered to provide further enhancements to the scheme already approved and offer a continuation of the prominent landmark building at the junction of Rugby Road and Hawley Road identified by the Hinckley Town Centre Renaissance Masterplan and the Hinckley Area Action Plan (Proposed Submission Document).

In summary, the design of the scheme has developed further and remains of a high quality appropriate for this important gateway site to the Town. The design is considered to comply with the requirements of Policy BE1.

Residential Amenity

Situated to the north and north eastern boundary of the site are the rear gardens to a number of properties on Clarendon Road, Fabius Close, Coley Close, Royal Court and Rugby Road. Willowbank Road serves as the access point to the car park and residential element of the site. No changes have been made to the approved scheme with regard to retention and enhancement of the existing car park which served the Fludes factory to facilitate the offices within the new development. Alterations to the layout of the residential properties are introduced in this scheme however, given the layout of the proposal and existing use of the site the development is not considered to result in any significant impact on the residential amenity of those properties.

Situated to the west of the site are properties on the opposite side of Rugby Road. This amended scheme has introduced further development in this location in the form of the infill extension; however the glazed element previously approved which projected towards Rugby Road has been omitted in this scheme. Given the layout, heights and design of the proposal together with the distance between the new development and properties located on Rugby

Road (with the busy road falling between) it is not considered that the development would result in any significant harm to the residential amenity of those properties.

With regard to the letters of representation received access and servicing is proposed to be contained within the site. A Noise Impact Assessment undertaken by WBM was submitted with the application. The report considered both the proposed and existing uses on site and concluded that road traffic is the dominant noise source. Mitigation measures have been incorporated into the design of the scheme and will be controlled by conditions. No concerns have been raised with regard to the existing and proposed uses within the site following consultation with the Head of Community Services (Pollution).

Transport

An updated Transport Assessment, prepared by Mayer Brown, has been submitted with the application. The document takes account of the previous planning permission and the analysis of the County Council which was based on the worst case analysis and advised that the impact of the development will be mitigated against through contributions towards highway improvements. The report concludes that the development proposals will have no material impact on the operation of the local highway network and that there are no reasons why this development should not be approved on highways or transportation grounds.

The County Highway Authority has no objection to the proposal subject to conditions. The consultation response confirms that the Transport Assessment has been produced on the basis of the difference in trips between the worst case scenario modelled for the consented development and the development proposed in this application. The difference in trips is -12 in the am peak and +7 in the pm peak. When comparing the 2014 'without development' scenario with the 2014 'with development worst case scenario', the development would clearly have an impact in both the am and pm peaks at the Rugby Road/Hawley Road/Westfield Road roundabout. The impact would reduce the capacity of the roundabout and increase the queue lengths on both the Rugby Road and Westfield Road approaches. There appears to be a flaw in the submitted modelling, which shows capacity improvements and reduced queue lengths on Hawley Road in the 'with development' scenarios. Therefore the County Highway Authority advises that the impact of the development must be mitigated against. This mitigation could take the form of a contribution towards improvements at this roundabout as detailed in the HBBC Supplementary Planning Document 'Hinckley Town Centre Strategic Transport Development Contributions'. A number of conditions are also imposed specifically relating to highway improvements.

Affordable Housing

The principle for a scheme of 100% affordable housing has been previously considered for this site. The applicant has confirmed that they have retained an RSL partner (Riverside Housing). This amended scheme differs from the previously approved scheme in that it proposes a mixed tenure scheme of fifty four units which comprises:

Social Rented	Intermediate - Shared Ownership	
1 Bed, 2 Person Flat	6	
2 Bed, 4 Person House	15	7
3 Bed, 5 Person House	13	13

The previously approved scheme proposed 15 social rented, 3 Bed, 5 Person Houses, two of those units are omitted from this scheme for reasons outlined above.

Viability and Infrastructure Contributions

The proposal attracts a total sum of £318,929.92 towards infrastructure improvements arising from the development.

At the time of writing the report no response had been received from both Leicestershire NHS Trust or Leicestershire Fire and Rescue.

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). Members will recall that the CIL Regulations came into force on 6 April 2010 and that the earlier report was presented to committee on 16 March 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.

The detail contained within the contribution requests received from Leicestershire County Council in respect of libraries, civic amenity and transport contributions are not considered to be compliant with the Community Infrastructure Levy Regulations and therefore these contributions cannot be supported. Additional information has been requested with regard to these requests.

The contributions requested and considered CIL compliant include:-

Education £236,963.92
Affordable Housing (40% which equates to 22 units).
Play and Open Space £81,966.00 calculated as follows:-

Capital Provision:-

Formal Open Space £16,947.00
Children's Equipped Play Space £23,575.50
Informal Children's Play Space £4,851.00

Maintenance Contribution:-

Formal Open Space £13,860.00
Children's Equipped Play Space £18,558.75
Informal Children's Play Space £4,173.75

The application site is within 400 metres of local open space at Granville Road Recreation Ground. This space has a poor quality score, confirmed in the Green Space Strategy which highlights existing deficiencies in the quality of the space. When this is considered alongside the pressures that the additional households (through the building of new homes) will undoubtedly put pressure on the use of these existing facilities and with the advantage of REC3 it is considered reasonable to request a developer contribution in this instance.

The application has been accompanied by a viability statement which provides an appraisal of the financial position in respect of the development together with a Counsel opinion on developer contributions for the site. The purpose of the applicant submitting the reports is to seek to justify the shortfall in developer contributions. The developer is offering a total of

£146,522. The sum offered up equates to 45.94% of the required contributions. The applicant intends to sign a Deed of Variation to the original Section 106 Agreement which is in place for this site.

The principle of compliance with the Council's adopted Protocol on Renegotiating Contributions required for Infrastructure Improvements has been assessed for this site and it is considered that no significant changes are proposed that would change the previous consideration in this regard.

Whilst the necessary bodies can demonstrate why they requested their necessary contributions, there remains no sequential way of being able to rank the importance of the infrastructure to aid the distribution of the developers proposed contribution. Therefore, in the absence of any input on this issue from the County Council, and rather than try to draw up a list of infrastructure priorities for delivery it is considered fairer and more appropriate to split the developers £146,522 contribution proportionally, whereby each service area should receive 45.94% of their requested figure. Members will recall that this method was used and supported in the report to committee on 16 March 2010.

This results in the following contributions:-

Education £108,865.38
Play and Open Space £37,656.62 calculated as follows:-

Capital Provision:-

Formal Open Space £7,785.75
Children's Equipped Play Space £10,831.00
Informal Children's Play Space £2,228.63

Maintenance Contribution:-

Formal Open Space £6,367.53
Children's Equipped Play Space £8,526.22
Informal Children's Play Space £1,917.49

Conclusion

The principle of the development has been previously assessed and approved under planning permission 09/00810/FUL. The importance of this site and the positive economic impact and community benefits which will come from the re-development of the site remains the same. It is considered that the finances applicable to the development are sound and reasonable given the nature of the development and the current market conditions. As such it is considered on balance that the regeneration benefits to the town centre as a whole remain to outweigh the shortfall in developer contributions.

Recommendation:- That subject to: the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section III of the Local Government Act 1972 towards, the provision and maintenance of public play and open space facilities, education and affordable housing requirements; by 25 January 2011, the Director of Community and Planning Services be granted powers to issue full planning permission subject to the conditions below. Failure to do so by 25 January 2011 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 Core Strategy (2009):- Policies 1, 5, 15, 19, 20 and 24.

Hinckley & Bosworth Borough Council Local Plan (2001):- Policies BE1, EMP1, NE2, NE12, NE14, T5, IMP1, REC2, REC3.

Hinckley Town Centre Renaissance Masterplan.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 This permission relates to the application plans and documents:-
MRP/0750/Ppsd/10r, MRP/0750/Ppsd/11c, MRP/0750/Ppsd/12c,
MRP/0750/Ppsd/13c, MRP/0750/Ppsd/14c, MRP/0750/Ppsd/15c,
MRP/0750/Ppsd/16c, MRP/0750/Ppsd/30c, MRP/0750/Ppsd/31b,
MRP/0750/Ppsd/32b, MRP/0750/Ppsd/50a, MRP/0750/Ppsd/51a,
MRP/0750/Ppsd/52b, MRP/0750/Ppsd/53b, MRP/0750/Ppsd/43a,
MRP/0750/Ppsd/44a, MRP/0750/Ppsd/70, MRP/0750/Ppsd/101d,
MRP/0750/Ppsd/102d, MRP/0750/Ppsd/103d, MRP/0750/Ppsd/104d,
MRP/0750/Ppsd/105d, MRP/0750/Ppsd/106c, MRP/0750/Ppsd/73e,
MRP/0750/Ppsd/74d, MRP/0750/Ppsd/75c, Bir.3260_01, Bir.3260_02, Bir.3260_03 (1 of 2), Bir.3260_03 (2 of 2), Bir.3260_05, Bir.3260_06, Design and Access Support Statement, Phases I & II Environmental Risk Assessment by Geodyne Ltd, Transport Assessment and Travel Plan by Mayer Brown, Tree Assessment Report by FPCR Ltd,, Ecological Assessment by FPCR.
- 3 Prior to the commencement of each phase of development a detailed schedule, including samples, of all external materials and colour finishes shall be submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with those details.
- 4 Notwithstanding the submitted information no development shall take place within each phase of development until full details of both hard and soft landscape works for the relevant phase of development 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
 - iii) car parking layouts
 - iv) other vehicle and pedestrian access and circulation areas
 - v) hard surfacing materials
 - vi) minor artefacts and structures (e.g. boundary/retaining walls, canopies, decking, furniture, refuse or other storage units, CCTV, lighting, barriers preventing access/egress, etc.)
 - vii) proposed and existing functional services above and below ground (e.g. drainage, pipelines, manholes, supports, etc.)
 - viii) planting plans
 - ix) written specifications

- x) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
 - xi) 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 Each phase of development hereby permitted shall not commence until drainage plans for the disposal of surface water, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, for the relevant phases of development have been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the relevant phase of the development is brought into use.
- 7 There is a public sewer which crosses the site. No building shall be erected or trees planted within 10 metres of this 1050 mm sewer.
- 8 Notwithstanding the submitted information prior to the commencement of development (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:-
- 1) a preliminary risk assessment which has identified:-
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - 2) a site investigation scheme, based on (1) to provide information for a details assessment of the risk to all receptors that may be affected, including those off site.
 - 3) the site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - 4) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
The scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
- 9 Prior to the commencement of each phase of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation for that phase 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 any plan (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.

- 10 Reports on monitoring and maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.
- 11 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
- 12 If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained approval in writing from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
- 13 The development hereby permitted shall be carried out in accordance with the submitted Flood Risk Assessment (FRA) Revision A, 09, Ref: NTW/378/FRA, undertaken by BWB Consultancy and the mitigation measures detailed within the FRA.
- 14 The development hereby approved shall not be commenced until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved scheme.
- 15 Notwithstanding the submitted information prior to the commencement of the residential development a scheme for noise protection shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include:-
 - the protection of the proposed dwellings and units from the noise of Rugby Road and Hawley Road; and
 - the protection of the proposed dwellings from noise from the proposed commercial premises.

The approved scheme shall be implemented in accordance with the agreed details and before the dwellings are first brought into use.
- 16 No commercial development shall take place until a scheme for ventilation of the premises, which shall include installation, maintenance and management has been submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details before the premises are first brought into use for the development hereby approved and maintained in use thereafter.
- 17 Prior to commencement of the commercial development, a revised drawing showing the provision of a ghost island junction on Hawley Road, including a pedestrian refuge

across the vehicular access to the Flude and Huckerby sites, shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.

- 18 Prior to the first occupation of the commercial development, the highway works to provide a ghost island junction on Hawley Road, including a pedestrian refuge across the vehicular access to the Flude and Huckerby sites, shall be completed to the satisfaction of the Highway Authority.
- 19 Prior to the first occupation of any dwelling hereby permitted, the highway works to provide 6 metre kerbed radii of the junction of Willowbank Road and Rugby Road as shown on Mayer Brown Limited drawing no. MRPFLUDE.1/01 rev D shall be completed to the satisfaction of the Highway Authority.
- 20 Prior to the first occupation of any part of the development site, the highway works to provide pedestrian crossing points on Rugby Road and Hawley Road as shown on Mayer Brown Limited drawing no. MRPFLUDE.1/01 rev D shall be completed to the satisfaction of the Highway Authority.
- 21 Prior to the first occupation of any part of the development site, the developer shall carry out a review of the existing Traffic Regulation Orders on both sides of Hawley Road between its junctions with Rugby Road and Station Road with the intention of introducing no waiting restrictions.
- 22 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected to the Flude/Huckerby or Alton sites they shall be set back a minimum distance of 15.0 metres behind the Highway boundary and shall be hung so as to open inwards only.
- 23 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected to the access to the car park on the unadopted section of Willowbank Road they shall be set back a minimum distance of 5.0 metres behind the Highway boundary and shall be hung so as to open inwards only.
- 24 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.
- 25 The gradient of the access drives to the commercial development shall not exceed 1:12 for the first 15.0 metres behind the Highway boundary.
- 26 Prior to first occupation of the commercial development, turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times.
- 27 Prior to first occupation of the Alton site hereby approved, turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times.
- 28 The existing vehicular accesses shall be closed permanently within one week of the new accesses being brought into use and the existing vehicular crossings reinstated to the satisfaction of the Local Planning Authority in consultation with the Highway Authority.

- 29 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.
- 30 Before the development commences, details of the routing of construction traffic shall be submitted to and approved in writing by the Local Planning Authority. During the period of construction, all traffic to and from the site shall use the agreed route at all times unless otherwise agreed in writing by the Local Planning Authority.
- 31 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.
- 32 Notwithstanding the submitted details no part of the commercial development shall be occupied until details of a Green Commuter Plan containing a travel to work, car use and car parking management strategy has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Highway Authority.
- 33 Before first occupation of any dwelling hereby permitted, car parking provision shall be made within the development site on the basis of Mayer Brown Limited drawing no. MRPFLUDE.1/01 rev D. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.
- 34 Before first occupation of each phase of the commercial development, car parking provision associated with each phase shall be made available within the site on the basis of Mayer Brown drawing no. MRPFLUDE.01/01 rev D including the existing car park accessed from Willowbank Road. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.
- 35 Before first use of each phase of development hereby permitted, cycle parking provision shall be made to the satisfaction of the LPA and once provided shall be maintained and kept available for use thereafter to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 36 Before first use of the commercial development hereby permitted the access drives to the commercial development and any turning space shall be surfaced with tarmac, concrete or similar hard bound material (not loose aggregate) for a distance of at least 15.0 metres behind the Highway boundary and shall be so maintained at all times.
- 37 Before first use of the each phase of development hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on the Highway boundary on both sides of all accesses with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway, in accordance with the current standards of the Highway Authority and shall be maintained thereafter.
- 38 Any shared private drive serving more than 5 but no more than 25 dwellings shall be a minimum of 4.8 metres wide for at least the first 5 metres behind the Highway boundary and have 6 metres kerbed radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.
- 39 Any windows or doors at ground floor level on the road frontage shall be of a type other than outward opening and shall thereafter be so maintained.

- 40 The overall amount of A3 floorspace shall not exceed 67 sqm square metres in total, including mezzanine floors.
- 41 The overall amount of D1 floorspace shall not exceed 1,095 square metres in total, including mezzanine floors.
- 42 No residential development shall commence until details of how the proposed dwellings accord with the Leicestershire Police Secure by Design standards have been submitted to and agreed in writing by the Local Planning Authority. The dwellings shall be constructed in strict accordance with the approved details and maintained that way thereafter and a copy of the Police compliance certificate shall be provided to the Local Planning Authority once issued unless otherwise agreed in writing by the Local Planning Authority.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To define the permission.
- 3 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 To enhance the appearance of the development to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that the work is carried out within a reasonable standard and period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure that the development is provided with satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution to comply with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 7 To maintain essential access for maintenance, repair, renewal and to protect the structural integrity of the public sewerage system to comply with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 8-12 To ensure the protection of controlled waters to accord with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 13 To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site to accord with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 14 To ensure the protection of controlled waters to accord with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 15 To ensure that the use remains compatible with the surrounding area to accord with Policy BE1 of the Hinckley and Bosworth Local Plan.
- 16 To ensure that the development does not have an adverse impact of the amenities of surrounding properties in terms of odour and noise to accord with Policy BE1 of the Hinckley and Bosworth Local Plan.

- 17-21 In the general interests of Highway safety to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 22 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected to the Flude/Huckerby or Alton sites they shall be set back a minimum distance of 15.0 metres behind the Highway boundary and shall be hung so as to open inwards only.
- 23 To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 24 To afford adequate visibility at the access/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 Hinckley and Bosworth Local Plan.
- 25 To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 26&27 To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 28 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 Hinckley and Bosworth Local Plan.
- 29 To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 30 To ensure that construction traffic associated with the development does not use unsatisfactory roads to and from the site to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 31 To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 32 To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to and from the site to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 33&34 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 35 In the interests of the sustainability of the development and to encourage alternative transport choice to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 36 To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) to accord with Policy T5 of the Hinckley and Bosworth Local Plan.

- 37 In the interests of pedestrian safety to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 38 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 Hinckley and Bosworth Local Plan.
- 39 In the interests of the safety of users of the Highway immediately adjacent to the front wall of the building to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 40&41 To protect the employment status of the site to accord with Policy EMP1 of the adopted Hinckley and Bosworth Local Plan.
- 42 To ensure the development is built to a secure standard and to the satisfaction of Leicestershire Police, in accordance with the requirements of Policies BE1 and IMP1 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.
- 5 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).
- 6 This planning permission is subject to a Section 106 Agreement and subsequent deed of variation.
- 7 With reference to condition No. 6 above the scheme you are referred to the comments of The Environment Agency dated 23 November 2010.
- 8 Your attention is drawn to the attached comments of the Borough Council's Environmental Health Officer (Pollution).
- 9 With reference to condition No. 32 above:-

The plan shall comprise proposals to reduce car dependence and vehicle emissions and to establish and encourage the use of alternative transport modes for journeys to and from work and during working hours. Details of the proposals shall include measures to secure increases in car sharing, public transport use, cycling and walking, proposals for car parking restrictions and controls and details of on-site facilities to promote alternative modes of travel to the site.

The plan shall make provision for relevant surveys, review and monitoring mechanisms, targets, timescales, phasing programmes and on-site management

responsibilities. It shall be implemented and subject to regular review in accordance with the above approved details.

10 With reference to condition No. 38 above:

If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

11 Your attention is drawn to the attached comments of Leicestershire County Council Director of Environment and Transport.

12 Your attention is drawn to the attached comments of Severn Trent Water Limited with reference to Condition No. 7 above.

Report from 16 March 2010 committee

Item: 02

Reference: 09/00810/FUL

Applicant: Mr Richard Anderson

Location: Flude House Rugby Road Hinckley

Proposal: MIXED USE DEVELOPMENT INCLUDING RETENTION, REFURBISHMENT AND EXTENSION TO EXISTING BUILDINGS AND DEMOLITION OF FACTORY BUILDINGS TO CREATE 50 DWELLINGS AND 6 APARTMENTS WITH ASSOCIATED PARKING

Introduction:-

This application proposes the redevelopment of a former manufacturing site on the corner of Hawley Road and Rugby Road for a mixed use development comprising a range of commercial uses (A1, A2, A3, D1, and B1) and 56 units of residential development and associated works.

The application site is 2.14 hectares and lies on the south west of Hinckley Town Centre. The site is located on a prominent location on the gateway into the town centre. The site is predominantly vacant and currently comprises various buildings which previously provided 758sqm of office development, 9,778sqm industrial development and 1,914sqm of warehousing. A variety of uses including residential, commercial, and retail bound the site. The land levels across the entire site are varied with a rise of approximately 3 metres from west to east along Willowbank Road with the existing buildings constructed on a series of plateaus separated by retaining walls.

A number of technical reports/assessments were submitted with the application they include:

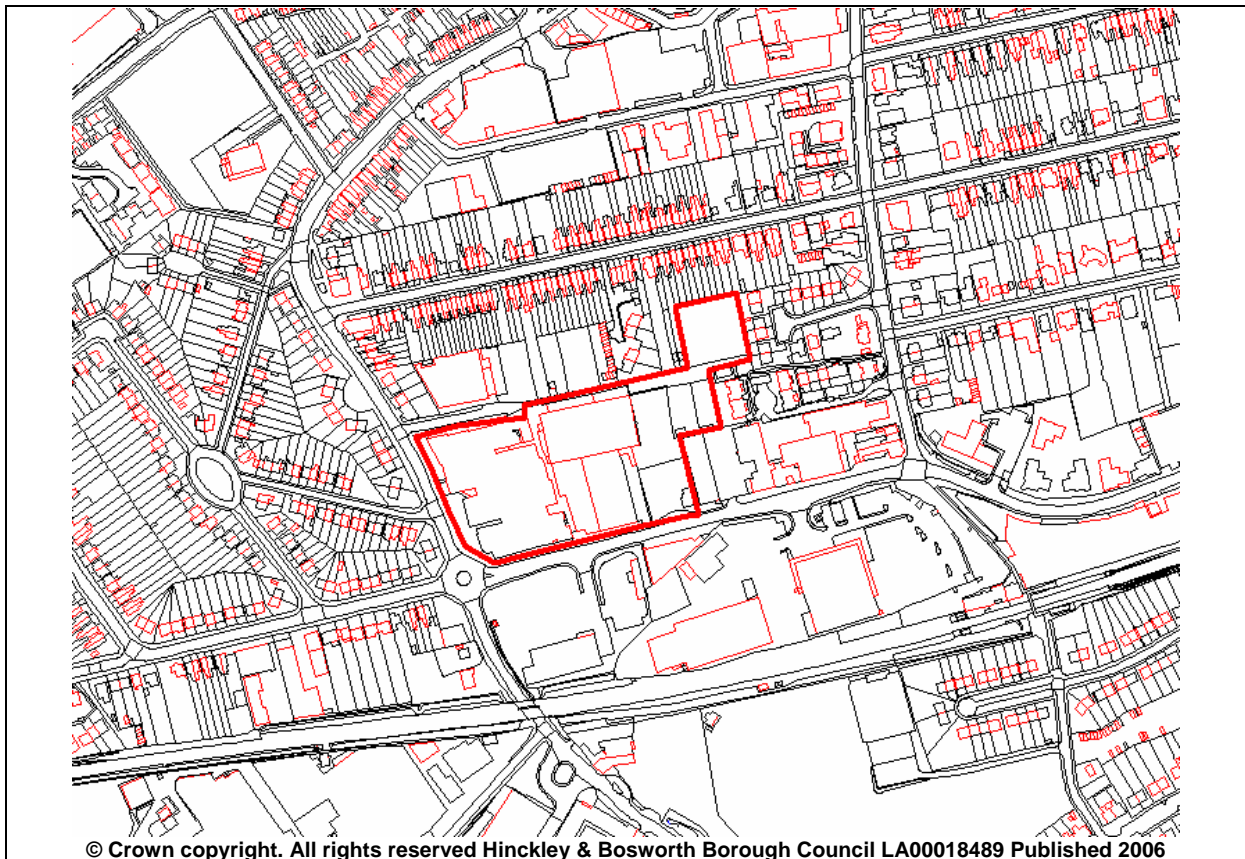
A Design and Access Statement, Affordable Housing Statement, Transport Assessment, Travel Plan, Ecology/Arboricultural Statement, Economic Viability Statement, Flood Risk Assessment, Environmental Risk Assessment.

The Design and Access Statement details the pre-application engagement steps that were undertaken and sets out the design principles that informed the layout of the scheme. It

explains the complex landownership of the site, how this has established the phasing scheme enabling delivery, and a justification for the uses proposed.

History:-

05/01207/OUT	Residential development and associated works	Refused	25.01.06
98/00559/OUT	Erection of a food store with vehicular and pedestrian access, car park and service	Dismissed at Appeal	



Consultations:-

No objections have been received from:-

E-On
Central Networks
The Leicestershire Constabulary Crime Reduction Officer.

No objection subject to conditions has been received from:-

Director of Environment and Transportation (Highways)
Severn Trent Water
Environment Agency
Head of Community Services (Land Drainage)
Head of Community Services (Pollution).

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

- a) Chief Executive (Ecology) has no objection but recommends that the developer be required to incorporate various measures to improve habitat opportunities for wildlife within the development.
- b) Director of Children and Young People (Education) states that there is surplus capacity in the local high school however, requires for an education contribution of £237,000 for Westfield Infant and Junior Schools and John Cleveland College based on 50 houses with two or more bedrooms.
- c) Head of Adults and Communities (Libraries) requires developer contributions of £3,130 towards the costs of an enhanced programme of refurbishment and improvements to facilities including equipment and other library materials.
- d) Director of Environment and Transport (Civic Amenity) requires developer contributions of £2,542 for new or improved Civic Amenity Site Infrastructure for the nearest site at Barwell.

Chief Executive, LCC (Ecology) agree with the surveyor's statement that there are no constraints to the removal of the buildings and the trees on the site.

Head of Business Development and Street Scene Services (Waste Minimisation) provides details relating to waste and recycling areas.

Press and site Notices posted, neighbours notified. 4 letters of representation have been received objecting on the following grounds:-

- Unsuitable occupation of the landmark building;
- Vehicle movements/traffic congestion;
- Car parking provision;
- Highway safety;
- Pollution;
- Flooding;
- Privacy;
- Higher than existing building;
- Impact of commercial premises on neighbouring properties through noise and disturbance;
- Disturbance during construction;
- Imposing to surrounding area;
- Deliveries to existing businesses would be severely disrupted during construction;
- Objections from future residents about the deliveries would occur and make continuance of business at site impossible;
- Control over deliveries;
- Open space provision;
- LPG gas on All Hire premises should be considered;
- Requires more screening by the planting of trees on Hawley Road;
- Suggest climate assessment;
- CCTV should be restricted to omit surrounding properties and children;
- Proximity;
- Tenure;
- Antisocial behaviour;

- All Hire site left out of redevelopment site;
- Existing business detrimental to new development;
- Access and security of existing business if piecemeal.

6 letters of representation have been received stating:-

- Action is required with condition of site;
- Existing issues with dog fouling on the site;
- Requires demolition and rebuild;
- Support for redevelopment but should consider traffic generation;
- Development is quite sympathetic to the privacy needs of local residents;
- Request for vehicular access to properties (11-29 Clarendon Road) for parking or permit holder only parking;
- Request that Angus site be removed from application;
- Request a brick wall be built 2m-3m high to screen Angus site from development;
- Request 10 metres separation between Angus site boundary and development;
- Request for widening of Willowbank Road leading to the car park;
- Distinct improvement on present eye-sore;
- Rights to properties on Coley Close should be maintained;

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

Leicestershire Fire and Rescue
 Primary Care Trust
 Director of Corporate and Scrutiny Services (Green Spaces).

Policy:-

Central Government Guidance

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

Planning Policy Statement 3 (PPS3): 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to ensure that housing developments are in suitable locations, which offer a good range of community facilities, with good access to jobs, key services and infrastructure. Paragraph 12 states that good design is fundamental to the development of high quality new housing. Paragraph 16 outlines matters to consider when assessing design quality and includes the extent to which the proposed development is easily accessible and well-connected to public transport and community facilities and services.

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

Planning Policy Statement 9 (PPS9): 'Biodiversity and Geological Conservation' includes the broad aim that development should have minimal impacts on biodiversity and enhance it where possible.

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

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

Government Circular 05/2005: Sets out the Secretary of State's policy on Planning Obligations, and would in practice be given significant weight by an Inspector on appeal.

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

The Homes and Communities Agency (HCA) Good Practice Note: Investment and Planning Obligations, Responding to the Downturn: expands on the current economic position, the problems facing the development industry and the ways in which local planning authorities should and can encourage development. This guidance encourages a flexible approach to ensure development continues.

Regional Policy

The East Midlands Regional Plan (adopted March 2009) provides the development strategy for the East Midlands up to 2026. Policy 2 promotes better design including highway and parking design that improves community safety. Policy 3 directs development towards urban areas with priority being given to making the best use of previously developed land. Policy 43 seeks to improve safety across the region and reduce congestion.

Local Policy

The site is identified in the adopted Hinckley and Bosworth Local Plan as an employment site, in The Hinckley Town Centre Renaissance Masterplan and the Hinckley Town Centre Area Action Plan (AAP) (Proposed Submission Document) as a potential mixed use development site.

Local Development Framework - adopted Core Strategy (2009)

Policy 1: Development in Hinckley supports Hinckley's role as a sub-regional centre and sets out the criteria to achieve this.

Policy 5: Transport Infrastructure requires interventions to support the additional development proposed in and around the Hinckley sub regional centre.

Policy 15: Affordable Housing sets the criteria for the proportion of 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: Green Space and Play Provision sets the standards for green space and play provision.

Policy 20: Green Infrastructure sets strategic interventions

Policy 24: Sustainable Design and Technology sets the criteria for residential homes and office development.

Adopted Hinckley and Bosworth Local Plan (2001)

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

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

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

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

Policy NE14 'Protection of surface waters and groundwater quality' protects the water environment.

Policy T5 refers to the application of appropriate standards for highway design and parking targets for new developments unless a different level of provision can be justified. Leicestershire County Council's document 'Highways, Transportation and Development' provides further design guidance.

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

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

Policy REC3 requires the appropriate level of open space to be provided within development sites. Alternatively, a financial contribution can be negotiated towards the provision of new recreational facilities within the vicinity of the site or towards the improvement of existing facilities in the area.

Other Policy Documents

The Hinckley Town Centre Renaissance Masterplan (Area 6) identifies the site for potential mixed use development incorporating new residential and commercial development providing a new gateway to the town centre.

Hinckley Town Centre Area Action Plan (Proposed Submission Document) Policy 6 - Rugby Road/Hawley Road sets the key principles and key requirements of the site.

The Borough Council's Supplementary Planning Document: Hinckley Town Centre Strategic Transport Development Contributions provides guidance on infrastructure requirements.

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

The Play and Open Space Guide Supplementary Planning Document (2008) provides further guidance to developers in respect of the different types of open space and the level of financial contributions required.

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

Appraisal:-

The main considerations with regard to this application are the principle of development, design and conformity with the masterplan, transport, affordable housing provision, viability and infrastructure requirements and impact on residential amenity,

Principle of development

The site is allocated for employment in the adopted Hinckley and Bosworth Local Plan, it is identified as a site for a mixed use development in the Hinckley Town Centre Renaissance Masterplan (Area 6) and Policy 7 of the Hinckley Town Centre Area Action Plan (Proposed Submission Document), therefore the principle of the development is considered acceptable.

Furthermore, it should be noted that this site has been vacant for a considerable period of time and is a key regeneration site in the Hinckley Town Centre on a prominent entrance into the town, as such a scheme that brings about the regeneration of the site and an environmental improvement should be supported in principle.

Design and Conformity with the Masterplan

The ownership of the site is complex; the applicant owns the former H. Flude & Co (Hinckley) Limited site (0.22ha) including car park however, three other land owners have control over the remainder of the masterplan site (Huckerby 0.22ha, Alton 0.13ha and Angus 0.14ha). Whilst the applicant is not in control of the entire site a comprehensive scheme for the re-development of Area 6 has been submitted.

The application site layout embraces the principles set out in the Hinckley Town Centre Renaissance Masterplan. It achieves four of the five key aims set out in the masterplan which include:-

- Mixed use development including new residential development and commercial development;
- A landmark building at the junction of Rugby Road and Hawley Road;
- Commercial uses facing Hawley Road;
- Residential uses facing onto Willowbank Road.

The key principles of the Renaissance Masterplan are echoed in the proposed Town Centre AAP.

The mix of uses proposed include 4,400sqm of B1 commercial space and 1,307sqm of flexible use space which includes A1 (Shops), A2 (Financial and Professional Services), A3 (Restaurants and Cafes), D1 (Non-residential institutions) and sui generis. The economic viability statement submitted with the application sets out the justification for the A3 and A1 units on economic viability grounds and the consultant's response to the report supports this view. In addition the Town Centre Area Action Plan, Policy 7, seeks active frontages to Hawley Road. The proposed ground floor units seek to provide those active frontages and encourage public interaction and permeability. It is considered that subject to the careful

control of the uses, through condition, particularly limiting the floor area of those uses and the A1 use solely for the sale of bulky goods, the flexible uses would be acceptable.

The Masterplan identifies the highly prominent corner at the junction of Hawley Road and Rugby Road as an opportunity for a high quality, landmark building in order to fully optimise a key strategic "gateway" opportunity into Hinckley. It suggests buildings of 4 and 5 storeys in height in order to achieve this. The proposal provides a landmark corner, ranging between 3-5 storeys in height, which is achieved through the retention, refurbishment and extension of both the existing Flude and substation buildings. This corner element proposes a variety of architectural styles incorporating a mix of materials including brick, render and glazing to add interest.

The commercial elements of the scheme are all accessed off Hawley Road and comprise three distinct parcels. A mixed use commercial scheme occupying the south west corner (former Fludes building and sub station); two new mixed use buildings (Huckerby Site) and a block of four, 3-storey self contained office buildings (Alton Site) with a separate access point. This presents key frontages to both Hawley Road and Rugby Road, between 3 and 5 storeys in height, in accordance with the aims of the Masterplan. Four of the five buildings proposed within the three parcels are 'layered' vertically to enable active frontages at ground floor which contribute to the street scene.

Both the Masterplan and Town Centre AAP require the provision of residential units; the AAP requires the provision of at least 30 units. The scheme presents 56 residential units in total, comprising 50 family homes and 6 apartments. It is arranged in two key areas accessed off Willowbank Road; the north west corner at the junction of Willowbank Road and Rugby Road and a series of terraces, orientated either north-south or east-west, accessed off the new internal site access road.

The residential layout has been guided by the sloping nature of the site together with the principles of Secure by Design New Home 2009. The residential element of the scheme aims to achieve 100% Secure by Design compliance. This has been confirmed in the consultation response received from the Police Architectural Liaison Officer.

Consideration has also been given to achieving 100% compliance with Lifetime Homes interiors criteria. The applicant states in the Design and Access Statement submitted with the application that 50 of the dwellings achieve the criteria however; it has not been possible to achieve the Lifetime Homes requirement for the apartments due to the location of the parking spaces.

The fifth aim of the Masterplan requires the provision of a new street structure linking Willowbank Road through to Hawley Road. The applicant has engaged in extensive pre-application negotiations to bring the site forward. In those discussions it was accepted that the schemes which were presented, which included those street structures, posed significant concerns and resulted in compromises to public safety and the sewer easement which crosses the site.

Whilst the scheme proposes two distinct elements of development; residential and commercial the overall design is inclusive and reads as one development. This is echoed through the materials to be used in the development, vistas, circulation within the areas, and hard and soft landscaping measures. Whilst the scheme does not provided the street structures/new connected streets that the Masterplan indicated overall the proposal is considered to achieve the aims and aspirations identified in the Hinckley Town Centre Renaissance Masterplan and the emerging Hinckley Town Centre AAP.

Transport

A Transport Assessment, prepared by Mayer Brown, has been submitted with the application. The documents takes account of the existing uses on site and considers the existing and proposed traffic attraction potential of the site and its impact on the surrounding highway network. The report concludes that the development is well located for public transport access, has good pedestrian and cycle access and would have no significant impact on the operation of the local highway network. The County Highway Authority has assessed the application based on 'worst case scenario' in terms of the mix and flexible uses proposed. It has been identified that when comparing the 'without development' scenario with the 'worst case' scenario, the development would clearly have an impact in both the am and pm peaks at the Rugby Road/Hawley Road/Westfield Road roundabout. The impact would reduce the capacity of the roundabouts and increase the queue lengths on both the Rugby Road and Westfield Road approaches. The impact of the development will be mitigated against through contributions towards improvements to the roundabout.

The level of parking within the site is considered acceptable. However, considering the remoteness of parking associated with the Flude building a Traffic Regulation Order will be required to prevent indiscriminate parking with the public highway on both sides of Hawley Road between its junctions with Rugby Road and Station Road. Any indiscriminate parking could have implications in terms of highway safety and capacity. This is controlled through conditions.

In the interests of encouraging sustainable travel to and from the site contributions are requested for travel packs, bus passes and bus stop.

Affordable Housing Provision

The application proposes a scheme of 100% affordable housing. The applicant has already sought an RSL partner and this has enabled them to be involved in the pre-application discussions. The development provides a mixed tenure scheme of fifty six units which comprises:

Social Rented	Intermediate- Shared Ownership		
1 Bed,	2 Person Flat	6	
2 Bed,	4 Person House	15	7
3 Bed,	5 Person House	15	13

Planning Policy Statement 3: Housing (PPS3) states that local planning authorities should be able to demonstrate the provision of an up to date five year land supply of deliverable sites for housing development. The Borough Council as of 1 October 2009, has a cumulative shortfall of 277 dwellings, equating to a housing supply of 4 years and 5 months.

Paragraph 71 of PPS3 states that "Where local planning authorities cannot demonstrate an up-to-date five year land supply of deliverable sites...they should consider favourably planning applications for housing....".

Core Strategy Policy 15: Affordable Housing seeks to deliver 2090 affordable homes within the Borough from 2008 to 2026. It should be noted that in the period 1 April 2009 to 1 September 2009, 64 affordable homes have been completed.

The adopted Supplementary Planning Document (SPD) on Affordable Housing seeks the provision of 40% affordable units therefore the scheme exceeds the requirements of the SPD. The Borough Council's Housing and Enabling Officer has been advising on the latest

position in relation to the tenure/mix of the housing requirement and supports the mix proposed.

Viability and Infrastructure Contributions

The proposal attracts the sum of £1,129,313.20 towards infrastructure improvements arising from the development.

At the time of writing the report no response had been received from both Leicestershire NHS Trust or Leicestershire Fire and Rescue.

The contributions requested include:-

Education £237,000

Civic Amenity £2,542

Libraries £3,130

Town Centre Infrastructure £801,000.00 (based on 56 residential units @£5,500 and 5800m² commercial @ £8,500)

Affordable Housing (40% which equates to 22 units).

Play and Open Space £85,641.20 calculated as follows:-

Capital Provision:-

Formal Open Space £17,592.60

Children's Equipped Play Space £25,026.30

Informal Children's Play Space £5,035.80

Maintenance Contribution:-

Formal Open Space £14,388.00

Children's Equipped Play Space £19,265.75

Informal Children's Play Space £4,332.75

The contributions requested by the Director of Environment and Transportation (Highways) are included within the Town Centre Infrastructure contribution.

The application has been accompanied by a viability statement which provides an appraisal of the financial position in respect of the development together with a Counsel opinion on developer contributions for the site. The purpose of the applicant submitting the reports is to seek to justify the shortfall in developer contributions offered up which totals £146,522. The sum offered up equates to 12.97% of the required contributions.

The Council has commissioned an independent team of consultants to assess the sites contained in the Hinckley Town Centre AAP. Lambert Smith Hampton has assessed viability through the calculation of residual land values based on an assumed profit level of 20% on cost. In addition to this study, a separate independent study has been undertaken which assesses the details submitted within the application. The assessment takes into account the grant funding available from the HCA which dictates the immediate build out of the housing element and the landownership constraints which dictate the deliverability of some aspects of the masterplan site.

In the consultants analysis of the development it is suggested that on balance they are reasonable and fair, with a reasonable developer return on cost. It is advised that typically developers will seek between 20% and 25% on return on cost, although, as in the residential case here, lower returns are accepted on pre-sold developments. It is clear that the phase one residential development will progress rapidly due to the HCA funding conditions. The

consultants advise that in order to bring forward the commercial development on the frontage of the site the developer should be encouraged to market the site to secure interest. It must be appreciated that the commercial development may not come forward swiftly and therefore it is advised that the developer should be encouraged to improve the site, making it ready for development.

In considering cases of reduced contributions such as this it is vitally important to give consideration to the Government Guidance contained within Circular 05/2005, paragraph B5 which requires that a planning obligation must be:-

- (i) Relevant to planning;
- (ii) Necessary to make the proposed development acceptable in planning terms;
- (iii) Directly related to the proposed development;
- (iv) Fairly and reasonably related in scale and kind to the proposed development; and
- (v) Reasonable in all other respects.

In this case the applicant, through the submission of the viability assessment and Counsel opinion has sought to demonstrate that the requirements of any planning obligation at full requested rates fails to satisfy the requirements of the Circular and is not fairly and reasonably related in scale and kind to the proposed development; and is therefore unreasonable in all other respects.

Saved Policy IMP1 of the adopted Hinckley and Bosworth Local Plan states that "planning permission will be granted ...where the developer has made or will make a contribution towards the provision of the necessary on site and off site infrastructure and facilities to serve the development commensurate with the scale and nature of the development proposed".

In assessing whether this proposal satisfies the requirements of Policy IMP1 the key issue for consideration is whether the contribution is commensurate with the scale and nature of the development proposed. The independent viability assessments that have been undertaken have supported the evidence submitted by the applicant. It demonstrates that the development is unable to support the full contributions requested. In addition, whilst the development requires 40% affordable housing through the SPD, the applicants are proposing a scheme which includes the provision of 100% affordable housing which is to be supported by grant aid assistance through the HCA. Therefore, on the basis of the evidence submitted, it has been demonstrated that the contributions are not commensurate with the scale and nature of the development proposed.

In respect of the schemes compliance with the Council's adopted Protocol on Renegotiating Contributions required for Infrastructure Improvements. The scheme complies with the provisions set out in the protocol. Deferred payment and phased payments have been considered however, it has been demonstrated that on the basis that a large proportion of the contributions are required to support the proposed housing provision and the scheme is being supported by the HCA through funding the developer would not be in a position to enter into a legal agreement that will have implications on the RSL. On the basis that the scheme proposes the development of a brownfield masterplan site which offers significant regeneration the scheme complies with the adopted Protocol.

On the basis that the developer has demonstrated that the scheme can afford a developer contribution of £146,522 the allocation of this contribution will need to be appropriately distributed across the necessary infrastructure services.

Whilst the necessary bodies can demonstrate why they requested their necessary contributions, there is no sequential way of being able to rank the importance of the infrastructure to aid the distribution of the developers proposed contribution. Therefore, in the

absence of any input on this issue at this stage from the County Council, and rather than try to draw up a list of infrastructure priorities for delivery it is considered fairer and more appropriate to split the developers £146,522 contribution proportionally, whereby each service area should receive 12.97% of their requested figure. This results in the following contributions:

Education £30,749.41
Civic Amenity £329.81
Libraries £406.10
Town Centre Infrastructure £103,925.22
Play and Open Space £11,111.46 calculated as follows:-

Capital Provision :-

Formal Open Space £2,282.54
Children's Equipped Play Space £3,247.02
Informal Children's Play Space £653.37

Maintenance Contribution:-

Formal Open Space £1,866.76
Children's Equipped Play Space £2,499.62
Informal Children's Play Space £2,282.54

At the time of writing the report no agreement, in respect of the reduced contributions, has been secured with the County Council. The opinions of Leicestershire County Council will be reported as a late item.

Impact on residential amenity

Situated to the north and north eastern boundary of the site are the rear gardens to a number of properties on Clarendon Road, Fabius Close, Coley Close, Royal Court and 102 Rugby Road. Willowbank Road serves as the access point to the car park and residential element of the site. It is proposed to retain and enhance an existing car park, which served the Fludes factory to facilitate the offices within the new development. Given the layout of the proposal and existing use of the site the development is not considered to result in any significant impact on the residential amenity of those properties. Situated to the west of the site are properties on the opposite side of Rugby Road. Concerns have been raised in respect of the height and potential overlooking from the commercial (mixed use) buildings. Again, given the layout and design of the proposal together with the distance between the new development and properties located on Rugby Road (with the busy road falling between) it is not considered that the development would result in any significant harm to the residential amenity of those properties.

A Noise Impact Assessment undertaken by WBM was submitted with the application. The report considered both the proposed and existing uses on site and concluded that road traffic is the dominant noise source. Mitigation measures have been incorporated into the design of the scheme and will be controlled by conditions. No concerns have been raised following consultation with Environmental Health Officers.

Conclusion

The application site is located in a prime location on the entrance into Hinckley Town Centre and is therefore classed as a key gateway site. This predominantly vacant site and buildings has become prone to criminal activity which has had a detrimental impact on the quality of

the surrounding area. It is considered that the submitted scheme will play a significant part in the regeneration and environmental improvement of the town centre and provides a much needed mix of affordable housing that has been purposefully designed to satisfy the Council's immediate housing needs.

The proposed development fulfils the majority of the criteria set out in the Hinckley Town Centre Renaissance Masterplan and Hinckley Town Centre Area Action Plan (Proposed Submission Document). It is considered that where there are deviations from the criteria they are not significant enough to impact on the overall aspirations for the development of this important 'gateway' site. PPS4 states 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.

The importance of this site and the positive economic impact and community benefits which will come from the re-development of the site will assist in future redevelopment of other masterplan sites in the town centre. The consultant's findings suggest that the finances applicable to the development are sound and reasonable given the nature of the development and the current market conditions. As such it is considered on balance that the regeneration benefits to the town centre as a whole outweigh the shortfall in developer contributions.

RECOMMENDATION:- That subject to: the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section III of the Local Government Act 1972 towards, the provision and maintenance of public play and open space facilities, education, library facilities, highways improvements, civic amenity facilities, town centre infrastructure improvements requirements; by 6 April 2010, the Director of Community and Planning Services be granted powers to issue full planning permission subject to the conditions below. Failure to do so by 6 April 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.

Local Development Framework: adopted Core Strategy (2009):- Policies 1, 5, 15, 19, 20 and 24.

Hinckley & Bosworth Borough Council Local Plan (2001):- Policies BE1, EMP1, NE2, NE12, NE14, T5, IMP1, REC2, REC3.

Hinckley Town Centre Renaissance Masterplan.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 This permission relates to the application as revised by amended plans Mrp/0750/Ppsd/10c, MRP/0750/Ppsd/11b, Mrp/0750/Ppsd/12b, Mrp/0750/Ppsd/13b, Mrp/0750/Ppsd/14b, MRp/0750/Ppsd/15b (Sht 1 of 2), MRP/0750/Ppsd/16b (Sht 2 of 2), MRP/0750/Ppsd/30b, MRP/0750/Ppsd/31a, MRP/0750/Ppsd/32b, MRP/0750/Ppsd/50, MRP/0750/Ppsd/51, MRP/0750/Ppsd/52a, MRP/0750/Ppsd/53a received by the Local Planning Authority on 12 February 2010 and original plans MRP/0750/Ppsd/40a, MRP/0750/Ppsd/41a,

MRP/0750/Ppsd/42b, MRP/0750/Ppsd/43b, MRP/0750/Ppsd/44a, Bir.3260_01, Bir.3260_02, Bir.3260_03, Bir.3260_05, Bir.3260_06 dated 5 January 2010.

- 3 Prior to the commencement of each phase of development a detailed schedule, including samples, of all external materials and colour finishes shall be submitted to and approved in writing by the local planning authority. The works shall be implemented in accordance with those details.
- 4 Notwithstanding the submitted information no development shall take place until full details of both hard and soft landscape works for each phase of development 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;
 - (iii) car parking layouts;
 - (iv) other vehicle and pedestrian access and circulation areas;
 - (v) hard surfacing materials;
 - (vi) minor artefacts and structures (e.g. boundary/retaining walls, canopies, decking, furniture, refuse or other storage units, CCTV, lighting, barriers preventing access/egress, etc.);
 - (vii) proposed and existing functional services above and below ground (e.g. drainage, pipelines, manholes, supports, etc.);
 - (viii) planting plans;
 - (ix) written specifications;
 - (x) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
 - (xi) implementation programme.
- 5 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 6 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage, incorporating sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, for the relevant phases of development have been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the relevant phase of the development is brought into use.
- 7 There is a public sewer which crosses the site. No building shall be erected or trees planted within 10 metres of this 1050mm sewer.
- 8 Notwithstanding the submitted information prior to the commencement of development (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:-
 - 1) a preliminary risk assessment which has identified:-

- all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors;
 - potentially unacceptable risks arising from contamination at the site.
- 2) a site investigation scheme, based on (1) to provide information for a details assessment of the risk to all receptors that may be affected, including those off site.
 - 3) the site investigation results and the detailed risk assessment (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - 4) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

- 9 Prior to development commencing on site, 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 any plan (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.
- 10 Reports on monitoring and maintenance and any contingency action carried out in accordance with a long-term monitoring and maintenance plan shall be submitted to the Local Planning Authority as set out in that plan. On completion of the monitoring programme a final report demonstrating that all long-term site remediation criteria have been met and documenting the decision to cease monitoring shall be submitted to and approved in writing by the Local Planning Authority.
- 11 Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.
- 12 If during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained approval in writing from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
- 13 The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment (FRA) Revision A dated 17 November 09, Ref: NTW/378/FRA,

undertaken by BWB Consultancy and the mitigation measures detailed within the FRA.

- 14 The development hereby approved shall not be commenced until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved scheme.
- 15 Notwithstanding the submitted information prior to the commencement of development a scheme for noise protection shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include:-
 - the protection of the proposed dwellings and units from the noise of Rugby Road and Hawley Road; and
 - the protection of the proposed dwellings from noise from the proposed commercial premises.

The approved scheme shall be implemented in accordance with the agreed details and before the dwellings are first brought into use.

- 16 No commercial development shall take place until a scheme for ventilation of the premises, which shall include installation, maintenance and management has been submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details before the premises are first brought into use for the development hereby approved and maintained in use thereafter.
- 17 Prior to commencement of development, a revised drawing showing the provision of a ghost island junction on Hawley Road, including a pedestrian refuge across the vehicular access to the Flude and Huckerby sites, shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.
- 18 Prior to the first occupation of the Flude and Huckerby sites, the highway works to provide a ghost island junction on Hawley Road, including a pedestrian refuge across the vehicular access to the Flude and Huckerby sites, shall be completed to the satisfaction of the Highway Authority.
- 19 Prior to the first occupation of any dwelling hereby permitted, the highway works to increase the radii of the junction of Willowbank Road and Rugby Road as shown on Mayer Brown Limited drawing no. MRPFLUDE.1/02 shall be completed to the satisfaction of the Highway Authority.
- 20 Prior to the first occupation of any part of the development site, the highway works to provide pedestrian crossing points on Rugby Road and Hawley Road as shown on Mayer Brown Limited drawing no. MRPFLUDE.1/02 shall be completed to the satisfaction of the Highway Authority.
- 21 Prior to the first occupation of any part of the development site, the developer shall carry out a review of the existing Traffic Regulation Orders on both sides of Hawley Road between its junctions with Rugby Road and Station Road with the intention of introducing no waiting restrictions.
- 22 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected to the Flude/Huckerby or Alton sites they shall be set back a minimum

- distance of 15.0 metres behind the Highway boundary and shall be hung so as to open inwards only.
- 23 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected to the access to the car park on the unadopted section of Willowbank Road they shall be set back a minimum distance of 5.0 metres behind the Highway boundary and shall be hung so as to open inwards only.
 - 24 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.
 - 25 The gradient of the access drives to the Flude/Huckerby and Alton shall not exceed 1:12 for the first 15.0 metres behind the Highway boundary.
 - 26 Prior to first occupation of the Flude and Huckerby sites, turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times.
 - 27 Prior to first occupation of the Alton site, turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times.
 - 28 The existing vehicular accesses shall be closed permanently within one week of the new accesses being brought into use and the existing vehicular crossings reinstated to the satisfaction of the LPA in consultation with the Highway Authority.
 - 29 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.
 - 30 Before the development commences, details of the routeing of construction traffic shall be submitted to and approved in writing by the Local Planning Authority. During the period of construction, all traffic to and from the site shall use the agreed route at all times unless otherwise agreed in writing by the Local Planning Authority.
 - 31 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.
 - 32 No part of the Flude, Huckerby or Alton sites shall be occupied until details of a Green Commuter Plan containing a travel to work, car use and car parking management strategy has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Highway Authority.
 - 33 Before first occupation of any dwelling hereby permitted, car parking provision shall be made within the development site on the basis of MRP Developments Services drawing no. MRP/0750/ppsd/10c. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.
 - 34 Before first occupation of the Flude site, car parking provision shall be made within the site on the basis of MRP Developments Services drawing no. MRP/0750/ppsd/10c including the existing car park accessed from Willowbank Road.

The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.

- 35 Before first occupation of the Huckerby site, car parking provision shall be made within the site on the basis of MRP Developments Services drawing no. MRP/0750/ppsd/10c. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.
- 36 Before first occupation of the Alton site, car parking provision shall be made within the site on the basis of MRP Developments Services drawing no. MRP/0750/ppsd/10c. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.
- 37 Before first use of each phase of development hereby permitted, cycle parking provision shall be made to the satisfaction of the LPA and once provided shall be maintained and kept available for use thereafter to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 38 Before first use of the development hereby permitted the access drives to the Flude/Huckerby and Alton sites and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 15.0 metres behind the Highway boundary and shall be so maintained at all times.
- 39 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 all accesses with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway, in accordance with the current standards of the Highway Authority and shall be maintained thereafter.
- 40 Any shared private drive serving more than 5 but no more than 25 dwellings shall be a minimum of 4.8 metres wide for at least the first 5 metres behind the Highway boundary and have 6 metres kerbed radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.
- 41 Any windows or doors at ground floor level on the road frontage shall be of a type other than outward opening and shall thereafter be so maintained.
- 42 The overall amount of A1 floor space shall not exceed 662 square metres in total, including mezzanine floors and shall be limited to the sale of bulky goods only.
- 43 The overall amount of A3 floor space shall not exceed 454 square metres in total, including mezzanine floors.
- 44 The overall amount of veterinary practice floor space shall not exceed 191 square metres in total, including mezzanine floors.

Reasons:-

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

- 3 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that the work is carried out within a reasonable standard and period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure that the development is provided with satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution to comply with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 7 To maintain essential access for maintenance, repair, renewal and to protect the structural integrity of the public sewerage system to comply with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 8-12 To ensure the protection of controlled waters to accord with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 13 To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site to accord with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 14 To ensure the protection of controlled waters to accord with Policy NE14 of the Hinckley and Bosworth Local Plan.
- 15 To ensure that the use remains compatible with the surrounding area to accord with Policy BE1 of the Hinckley and Bosworth Local Plan.
- 16 To ensure that the development does not have an adverse impact of the amenities of surrounding properties in terms of odour and noise to accord with Policy BE1 of the Hinckley and Bosworth Local Plan.
- 17-19 In the general interests of Highway safety to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 20 In the interests of pedestrian safety to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 21 In the general interests of Highway safety to accord with policy T5 of the Hinckley and Bosworth Local Plan.
- 22&23 To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 24 To afford adequate visibility at the access/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 Hinckley and Bosworth Local Plan.

- 25 To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general highway safety to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 26 To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 27 To enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 28 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 Hinckley and Bosworth Local Plan.
- 29 To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 30 To ensure that construction traffic associated with the development does not use unsatisfactory roads to and from the site to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 31 To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 32 To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to and from the site to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 33-35 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 36 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area.
- 37 In the interests of the sustainability of the development and to encourage alternative transport choice to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 38 To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 39 In the interests of pedestrian safety to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 40 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 Hinckley and Bosworth Local Plan.

- 41 In the interests of the safety of users of the Highway immediately adjacent to the front wall of the building to accord with Policy T5 of the Hinckley and Bosworth Local Plan.
- 42 To protect the vitality and viability of Hinckley Town Centre to accord with Policy Retail 1 of the adopted Hinckley and Bosworth Local Plan.
- 43 To protect the employment status of the site to accord with Policy EMP1 of the adopted Hinckley and Bosworth Local Plan.
- 44 To ensure that the development is compatible with the surrounding properties/units to accord with Policy BE1 of the Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 With reference to condition No. 6 above the scheme you are referred to the comments of The Environment Agency dated 8 February 2010.
- 6 Your attention is drawn to the attached comments of the Borough Council's Environmental Health Officer.
- 7 With reference to condition No. 32 above :

The plan shall comprise proposals to reduce car dependence and vehicle emissions and to establish and encourage the use of alternative transport modes for journeys to and from work and during working hours. Details of the proposals shall include measures to secure increases in car sharing, public transport use, cycling and walking, proposals for car parking restrictions and controls and details of on-site facilities to promote alternative modes of travel to the site.

The plan shall make provision for relevant surveys, review and monitoring mechanisms, targets, timescales, phasing programmes and on-site management responsibilities. It shall be implemented and subject to regular review in accordance with the above approved details.

- 8 With reference to condition No. 40 above:-

If the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.

- 9 All details of the proposed development shall comply with the design standards of the Leicestershire County Council as contained in its current design standards document. Such details must include parking and turning facilities, access widths, gradients, surfacing, signing and lining (including that for cycleways and shared use footway/cycleways) and visibility splays and be submitted for approval by the Local Planning Authority in consultation with the Highway Authority before development commences.

Your attention is drawn to the requirement contained in the Highway Authority's current design guide to provide Traffic Calming measures within the new development.

- 10 Your attention is drawn to the attached comments of Leicestershire County Council Director of Environment and Transport.

Late Item from 16 March 2010 committee

09/00810/FUL

MRP Hinckley No.1 LP

ITEM 02

Consultations:-

Leicestershire County and Rutland Community Health Services (PCT) has requested a contribution of £23,340.00 to respond to the requirements of the local GP's particularly Station View Health Centre, Southfield Road or to the central practices should further investment not prove viable.

Further clarification has been provided from Severn Trent Water with regard to condition 7. A note to applicant is required to clarify the requirements of the condition.

Leicestershire County Council have provided a written appraisal of the viability case presented by the applicant. The County considers that the full contribution is required in this case.

Appraisal:-

On the basis of the additional contribution request from the PCT the contribution allocation has been re-visited and the proportionate split of 12.71% in contributions is as follows:-

Leicestershire NHS Trust (PCT) £2,966.91
Education £30,126.77
Libraries £406.10
Town Centre Infrastructure £101,820.84
Play and Open Space £10,886.47

Capital Provision:

Formal Open Space £2,236.01
Children's Equipped Play Space £3,180.84
Informal Children's Play Space £640.06

Maintenance Contribution:

Formal Open Space £1,828.71
Children's Equipped Play Space £2,448.67
Informal Children's Play Space £552.18

Recommendation:-

Following the receipt of the request from PCT for developer contributions, the recommendation has been adjusted:-

Recommendation:- That subject to the execution of an agreement under Section 106 of the Town and Country Planning Act 1990 and Section III of the Local Government Act 1972 towards, the provision and maintenance of public play and open space facilities, education, library facilities, civic amenity facilities, healthcare provision and town centre infrastructure improvements; by 6 April 2010 the Director of Community and Planning Services be granted powers to issue full planning permission subject to the conditions below. Failure to do so by 6 April 2010 may result in the application being refused.

Various alterations have been made to the conditions to define "commercial" and "residential" phases of development, those amendments are as follows:

- 9 Prior to the commencement of each phase of the development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation for that phase 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 any plan (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.
- 15 Notwithstanding the submitted information prior to the commencement of the residential development a scheme for noise protection shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include:- the protection of the proposed dwellings and units from the noise of Rugby Road and Hawley Road; and - the protection of the proposed dwellings from noise from the proposed commercial premises.

The approved scheme shall be implemented in accordance with the agreed details and before the dwellings are first brought into use.
- 17 Prior to commencement of the commercial development, a revised drawing showing the provision of a ghost island junction on Hawley Road, including a pedestrian refuge across the vehicular access to the Flude and Huckerby sites, shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority.
- 18 Prior to the first occupation of the commercial development, the highway works to provide a ghost island junction on Hawley Road, including a pedestrian refuge across the vehicular access to the Flude and Huckerby sites, shall be completed to the satisfaction of the Highway Authority.
- 25 The gradient of the access drives to the commercial development shall not exceed 1:12 for the first 15.0 metres behind the Highway boundary.

- 26 Prior to first occupation of the commercial development, turning facilities shall be provided within the site in order to allow vehicles to enter and leave in a forward direction. The turning area so provided shall not be obstructed and shall be available for use at all times.
- 32 No part of the commercial development shall be occupied until details of a Green Commuter Plan containing a travel to work, car use and car parking management strategy has been submitted to and agreed in writing by the Local Planning Authority in consultation with the Highway Authority.
- 34 Before first occupation of the commercial development, car parking provision shall be made within the site on the basis of MRP Developments Services drawing no. MRP/0750/ppsd/10c including the existing car park accessed from Willowbank Road. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking.
- 38 Before first use of the commercial development hereby permitted the access drives to the commercial development and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 15.0 metres behind the Highway boundary and shall be so maintained at all times.

additional condition:-

- 45 No development shall commence until details of how the proposed dwellings accord with Leicestershire Police's Secure by Design standard have been submitted to and agreed in writing by the Local Planning Authority. The dwelling shall be constructed in strict accordance with the approved details and maintained that way thereafter and a copy of the Police compliance certificate shall be provided to the Local Planning Authority once issued.

Reason: To ensure the development is built to a secure standard and to the satisfaction of Leicestershire Police, in accordance with the requirements of Policies BE1 and IMP1 of the Adopted Hinckley and Bosworth Local Plan.

Additional Note to Applicant:-

- 11 Your attention is drawn to the attached comments of Severn Trent Water Limited with reference to Condition No. 7 above.

Contact Officer:- Cathy Horton Ext 5605

Item: 08
Reference: 10/00908/FUL
Applicant: Mr J Singh
Location: 102 Rugby Road Hinckley
Proposal: Change of use from Retail (Class A1) to Hot Food Takeaway (Class A5) and retention of an external extractor flue (retrospective)
Target Date: 12 January 2011

Introduction:-

This application is to be considered at Planning Committee at the request of the local ward Member.

Application Proposal

This application seeks permission for the change of use of the premises to a hot food takeaway (Class A5) with the retention of an extractor flue.

The proposed hours of operation are 7.30 am to 6pm Monday to Saturday (closed on Sundays and Bank Holidays). The internal floor area of the shop will remain unchanged and the application refers to the ground floor only. There will be alterations to the internal layout to incorporate a serving counter in lieu of the existing seating area.

The extractor flue pipe which emerges from the rear of the property, extends horizontally 3.5 metres along the rear in a southerly direction and then extends to 4 metres vertically. The flue projects 1.7 metres past the eaves but does not project past the ridge line. The flue pipe has a diameter of 400 mm and is finished in stainless steel.

The extraction flue has been erected and was the subject of a previous application which was refused by Committee on 25 November 2009 (09/00749/FUL). Following the recent refusal of permission (ref: 10/00241/FUL) for the change of use from retail to hot food takeaway and retention of external flue (retrospective), an appeal was lodged with the Secretary of State (ref: APP/K2420/A/10/2131597). The appeal was dismissed on 8 October 2010 on the grounds of the effect of the proposed use on residential amenity, particularly in regard to activity outside the property. As such the existing flue is unauthorised and enforcement action is pending.

Following concerns raised by officers, additional information outlining the technical specifications of the extractor flue and wall sound proofing treatment have been received and re-consultation has been undertaken with Head of Community Services (Pollution).

The Site and Surrounding Area

The property is a hipped roof, 1920's-30's semi-detached residential property which was converted into a commercial unit more than 20 years ago. The property has a shop front which spans across the front elevation with a roller shutter. The first record of this property's use is through an application to extend the shop at 102 Rugby Road in 1971.

The property is situated in a predominately residential area interspersed with commercial premises to the north, on the eastern side of Rugby Road. The property is situated on the junction with Rugby Road and Willowbank Road and the derelict Flude factory stands on the adjacent corner to the site to the south with an industrial unit to the rear. The residential property of 100 Rugby Road shares the applicant's northern boundary and the front elevations of residential properties 157-161 Rugby Road are opposite the site.

Technical Documents submitted with application

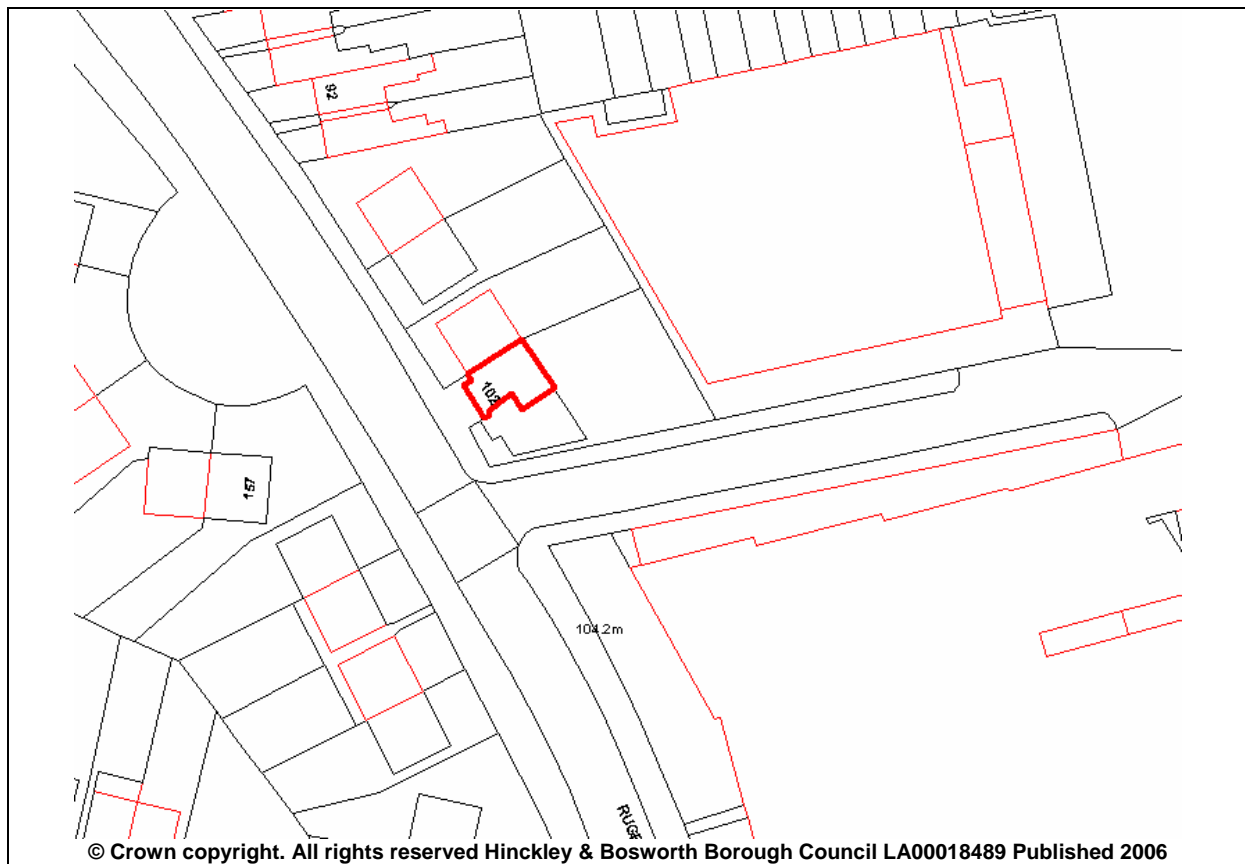
A Design and Access Statement has been submitted in support of this application which states that the commercial use records for these premises relate back to August 1989. The premises were formerly known as 'The Pantry' and were in operation between 1987 and 2003. The current hours proposed are similar to those operated during this period. The sworn statement accompanying the application also states that the previous occupier advertised and sold hot and cold food for both sit in and takeaway for a period of 6 years and 3 months.

The Design and Access Statement considers the application site and surroundings and the proposed development in the context of local policy. It states that the eastern area of Rugby Road will become mixed use in character, following the consented redevelopment of the former Flude factory, that existing parking bays are rarely used in daylight hours and there is no known relevant highway accident history. It also states that the retention of the existing flue within the previous application was deemed acceptable by environmental health and planning officers in terms of residential amenity and character of the area. The statement concludes that the submitted scheme has reduced the opening hours and added additional soundproofing to address the issues identified by the Planning Inspector within the appeal decision.

History:-

An Enforcement enquiry (ref: 09/00326/UNUSE) is still pending and is dependent upon the decision of this application.

10/00241/FUL	Change of Use from Retail to Hot Food Takeaway and retention of external extractor flue (retrospective)	Refused Appeal Dismissed	17.05.10 08.10.10
09/00755/CLU	Certificate of existing lawful use of A3 hot food takeaway and restaurant	Refused	15.12.09
09/00749/FUL	Retention of extractor flue pipe	Refused	25.11.09
90/00484/4	Extension to provide residential	Approved	21.06.90
87/01158/4	Entrance lobby toilet and lounge	Approved	21.12.87
84/00602/4	Store and WC extension	Approved	21.08.84



Consultations:-

No objections from:-

Director of Environment and Transport (Highways)
Head of Community Services (Land Drainage).

No objection subject to conditions from Head of Community Services (Pollution)

Site notice displayed and neighbours notified.

Five letters of objection has been received, which raise the following concerns:-

- a) trading in the evening leading to disruption and inconvenience to neighbours
- b) increased level of traffic and restricted parking
- c) cooking area to neighbour will create noise and smells
- d) extractor fan and flue are noisy and impact upon neighbouring dwelling
- e) extractor fan and flue are large and unsightly
- f) flue has enforcement order
- g) is a stand alone business in a residential area
- h) sound proofing of the wall would have little affect on noise and smells and coming and going of traders
- i) increase in level of litter.

The consultation period remains open at the time of writing and closes on the 16 December 2010. Any further consultation responses received before the closing date will be reported and appraised as a late item.

Policy:-

Central Government Guidance

Planning Policy Statement 1 (PPS1) 'Sustainable Development and Climate Change' sets out the Government's objectives for delivering sustainable development and the principles behind the planning system in seeking to provide a good quality environment for people to live in.

Planning Policy Statement 4 (PPS4) 'Planning for Sustainable Economic Growth' sets out the Government's objectives for prosperous economies which include improving the economic performance of both rural and urban areas, promoting regeneration and tackling deprivation, delivering more sustainable patterns of development, reducing the need to travel and promoting the vitality and viability of town and other centre uses. Policy EC2.1(d) seeks to make the most efficient and effective use of land, prioritising previously developed land which is suitable for re-use and reflects the different location requirements of businesses, such as the size of site required, site quality and access. Policy EC10: supports applications which secure sustainable economic growth.

Regional Policy

The decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010. Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies. The government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS's letter of 27 May 2010 and that it should still be regarded as a material consideration. However, these two letters and the SoS's letter of 27 May 2010 need to be considered against the judgment handed down and it is clear from the judgement that the High Court has reinforced the primacy and significance of Regional Strategies in the current planning system. The Court held that if changes are to be made to the status of Regional Strategies then those changes will need to come in the form of primary legislation. Changes cannot be made in the manner proposed by the SoS and it is also reasonable on the basis of the judgment to conclude that the letters of 27 May and the two letters sent following the judgment, whilst they may be regarded as material considerations, have to be weighed against the clarity and force of the judgement and the current legislative position, and in your officers' opinion should not be given any weight.

East Midlands Regional Plan 2009

This is the Regional Spatial Strategy for the East Midlands and provides a broad development strategy for the East Midlands. The following relevant policies apply to this proposal:

Policy 3 identifies Hinckley as a Sub-Regional Centre and sets out how development and economic activity should be distributed regionally.

Policy 22 sets out priorities for town centres and retail development.

Local Development Framework Core Strategy 2009

Strategic Objective 2: 'Regeneration of Urban Centres' seeks to deliver the regeneration of Hinckley town centre.

Policy 1: 'Development in Hinckley' seeks to ensure that there is a range of employment opportunities within Hinckley.

Hinckley and Bosworth Local Plan 2001

The site is located within the Hinckley Settlement Boundary as defined within the adopted Hinckley and Bosworth Local Plan Proposals Map.

Policy BE1: 'Design and Siting of Development', considers the design and siting of development to ensure that the proposed development safeguards or enhances the existing environment and complements the existing character and would not adversely affect the occupiers of neighbouring properties.

Policy T5: 'Highway Design and Vehicle Parking Standards' states that appropriate parking standards as set out in the Local Plan will apply unless a different level of provision can be justified.

Supplementary Planning Guidance/Documents

The Council's Supplementary Planning Document on Shopping and Shop Fronts (SPD) states that the best location for hot food takeaways, pubs, bars and restaurants and cafes is normally within main and local shopping centres. Where an A3, A4 or A5 use is considered acceptable (outside of these areas), opening hours will be controlled by the imposition of conditions and in the majority of cases, the hours of service to the public will be restricted to 11:30pm, or earlier where the proposed use is in a primarily residential area, and such a restriction would be in the interests of residential amenity.

The SPD identifies that drinking establishments and hot food takeaways (Class A4 and A5 respectively), can be harmful to adjoining neighbours, and are not likely to be favourably considered in a predominantly residential area or in locations where existing houses are adjoining or are in close proximity to the proposed premises. This principle will be strictly applied to the type of food and drink outlets that intend to serve customers into the late evening/early morning.

Appraisal:-

The main considerations with regard to this application are the principle of development, the impact of the proposed change of use upon residential amenity including odours, noise and disturbance, the visual impact of the flue upon the character of the local area and highway safety.

Principle of Development

This particular part of Rugby Road has no designation identified within the adopted Hinckley and Bosworth Local Plan and the character of this area is generally mixed with industrial premises to the rear and south with residential properties to the north, north east and west. Commercial properties are also interspersed with residential properties to the north of Rugby Road on the eastern side, but are located within the area designated as secondary shopping frontage, as designated within the adopted local plan.

Environmental Health records show that the premises have previously been used as an A1 shop and that there was an element of hot and cold food sold which was consumed on and off the premises. The sworn statement accompanying the application also states that hot food was both advertised and sold for eating in and as a takeaway for a period of 6 years and 3 months. The position with regard to whether a change of use of the building to either

an A3 (cafe) or A5 (takeaway) had occurred previously for a continuous period of ten years, was not established within the Certificate of Lawful Use application that was refused last year, concluding that the existing use of the premises is A1 (shop).

The Council's Supplementary Planning Guidance on Shopping and Shop Fronts acknowledges that the best location for hot food takeaways and similar uses is normally within main and local shopping centres rather than in predominantly residential areas. Whilst there are a range of uses which exist on Rugby Road within the secondary shopping frontage to the north of this site and A1, A2, A3, D1, and B1 uses have been approved as part of the Flude development site (ref: 09/00810/FUL), the area remains predominantly residential in character with interspersed other uses. The development is therefore considered to be contrary to the SPG as it is proposing a hot food takeaway within a predominantly residential area.

Impact upon Residential Amenity

The proposed A5 use could result in a degree of odour, noise and general disturbance to neighbouring properties, particularly the semi detached neighbour and the occupier of the flat above. The property most immediately affected as a result of the proposal would be No.100 Rugby Road, which adjoins the site to the North. Objections have been raised in relation to this application on the basis the flue will create a noise and smell disturbance to nearby residential properties.

The Head of Community Services (Pollution) has confirmed that the proposed structural improvements to the wall adjoining No. 100 Rugby Road and the noise levels produced by the equipment should not prove detrimental to the neighbours amenity. The extraction system should be sufficient to address odour issues provided that the unit is installed and managed correctly. Accordingly, it is considered subject to the imposition of a planning condition, that the equipment would prevent unacceptable disturbance to neighbouring properties.

With respect to opening hours the SPG suggests that opening should be restricted to 11.30 pm but this is for hot food uses in primary shopping areas. Whilst the applicant has reduced the hours of operation in an attempt to further mitigate any impact on the neighbours amenity, the associated noise and disturbance of people coming and going, the starting and stopping of visitors cars and the noise associated with the closure of car doors, the use remains harmful to residential amenity as identified by the Planning Inspector. Whilst it is noted that the proposed hours of opening have been reduced in an attempt to overcome the Inspectors concerns it is considered that the reduction in the opening hours proposed is not sufficient to overcome this detriment and the uses unacceptability arises through a conflict in the siting of such uses within predominantly residential areas.

In summary it is considered that the proposal would be to the detriment of residential amenity and therefore contrary to the provisions of Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Impact upon Visual Amenity

The existing flue is unauthorised and enforcement action is pending subject to the determination of this application, however in the earlier appeal the Inspector found that the flue did not result in any harm to visual amenity.

The flue is not visible from Rugby Road as it does not project past the ridge and is obscured from view by the hipped roof. The view of the rear of the property, where the most significant massing of the flue is located, is obscured from Rugby Road by the subject property itself

and from Willowbank Road by conifer hedging to an approximate height of between 3 and 4 metres on the southern boundary. The most visible element of the flue is the final 1.7 metre high section which projects past the eaves. This element of the flue is visible on the northern approach up Rugby Road, however it is read in conjunction with the adjacent Flude factory giving this approach a more utilitarian character.

In summary, it is considered that the flue would not have an unduly detrimental impact on the character of the area and would not be significantly adverse to sustain a refusal of permission on this basis. It is not considered necessary to attach a condition requiring that the flue be painted black, given that the Inspector concluded that the flue in its current form was not materially harmful to the street scene or to the visual amenity of any neighbouring resident.

Accordingly, it is considered that the appearance of the flue accords with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Highway Issues

Neighbours have raised concerns about the level of parking and increase in level of traffic. There is no on site parking for customers provided within the site, however there are parking bays within close proximity and as such it is considered that there is provision for cars to park without obstructing the highway. This is supported by the Director of Environment and Transport (Highways) whom states that whilst proposal for a hot food takeaway (A5) use are usually resisted, there is potential for parking in on street car parking bays with limited waiting on Rugby Road at the front of the premises, and at other locations in the vicinity and as such the proposal is considered acceptable. It is important to note that Inspector in his determination of the earlier appeal, found that the proposal did not result in harm to highway safety.

Accordingly it is considered that the proposal accords with Policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.

Conclusion

The addition of a A5 hot food takeaway in this location would, by virtue of the conflict that arises from the noise and disturbance associated with such a use, be to the detriment of the amenities currently experienced by the adjacent occupiers. The Inspector found that the flue, in terms of its visual appearance, was not harmful. The Environmental Health Officer has advised that there are no residential amenity issues associated with the flue. Whilst, if planning permission for the use is refused as recommended, the flue is not necessary, this is not sufficient grounds, given the lack of harm found by the Inspector, to continue the enforcement action and therefore the enforcement notice will be withdrawn.

RECOMMENDATION :- Refuse for the following reason subject to no further significant material considerations being received prior to the expiry of the consultation period on 16 December 2010:-

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

Reasons:-

- 1 In the opinion of the Local Planning Authority the proposed hot food takeaway in terms of general disturbance, and traffic generation is likely to detrimentally affect the amenities of neighbouring residents and the general character of the area, contrary to

Policy BE1 of the adopted Hinckley and Bosworth Local Plan and the Council's Supplementary Planning Document on Shopping and Shop Fronts.

Contact Officer:- Ebony Mattley Ext 5691

Item: **09**

Reference: **10/00920/FUL**

Applicant: **Mr Matthew Gilliver**

Location: **Land Congerstone Lane Barton In The Beans**

Proposal: **SITING OF A TEMPORARY OCCUPATIONAL DWELLING (REVISED APPLICATION)**

Target Date: **17 January 2011**

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is for a temporary occupational dwelling for which an agricultural appraisal is required.

Application Proposal

This is a revised application for the siting of a temporary mobile home for an occupational worker in connection with the livery business at Barton Gate, Congerstone Lane, Barton in the Beans. The previous application, 10/00469/FUL was withdrawn due to the response of The Borough Council's Agricultural Appraisal Consultant which was not supportive of the proposal and, in addition, the proposed siting was not considered to be acceptable.

The application is in connection with planning permission 08/00700/FUL which was for the extension and change of use of an agricultural building to equestrian use as 20 stables, tack room and storage, together with the formation of a manège. The application was granted planning permission on 11 September 2008 and contains a condition which limits the number of horses on site at any time to a maximum of 20.

The proposal is for a 'log cabin' type mobile home which has dimensions of 13.6 metres x 6.1 metres, with an open veranda area of 2.1 metres x 6.1 metres to one end. It is single storey, timber clad with a ridge height of 3.5 metres. The roof materials are metal profiled roof tiles. The total floorspace is 83 square metres and would provide a dwelling with two bedrooms.

The Site and Surrounding Area

The application site is 4.5 hectares and is located off Congerstone Lane, to the west of the settlement of Barton in the Beans, it consists of paddocks with the barn/stable building and manège located to the western end of the site. The land falls gently from east to west and from south to north and is well screened by mature hedges. The site is accessed along a track which runs parallel with a bridleway (S80). A public footpath (S88) crosses the site.

Technical Documents submitted with application

The Design and Access Statement submitted with the application states that all pre-commencement conditions in relation to planning permission 08/00700/FUL have been discharged and that works have commenced on site. The site has been in the current ownership for the past 3 years and currently 12 stables have been provided. There are currently 9 horses on site, 8 livery and 1 owned by the applicant.

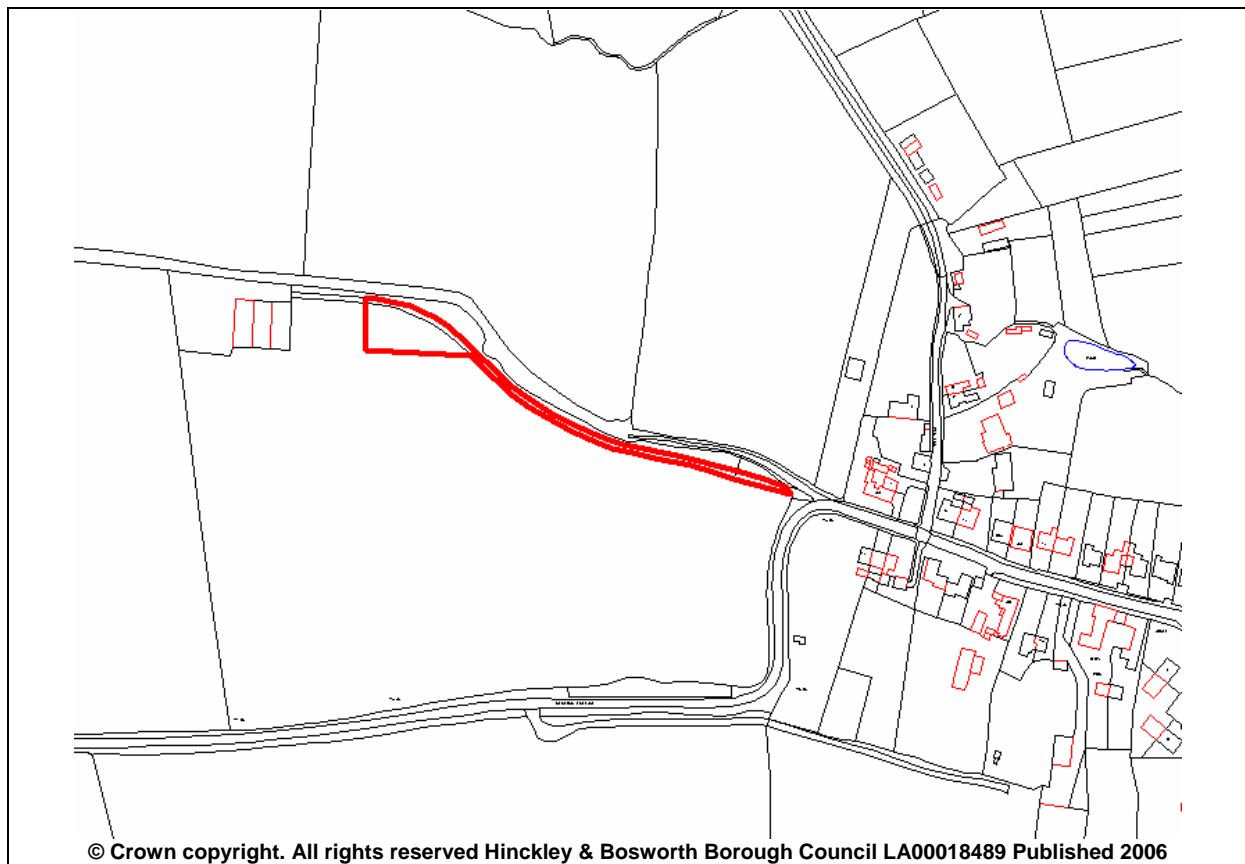
Further information submitted with the application states that it is intended in future, to provide the further 8 stables, previously granted planning permission, and to offer foaling, broodmare and young stock facilities. Further improvements to the facilities are also planned such as stud livery, a horse clipping service and hiring the ménage to the local pony club and other riders. Security on site is a major concern as there is no natural surveillance to the stables due to the natural topography and landscaping and the site has suffered from numerous break-ins with fences cut through, horses getting onto the highway and equipment and plant being stolen. Such incidents damage the reputation of the business and may affect the commercial viability of the enterprise. CCTV is proposed to be introduced but it is necessary to react to such events promptly particularly in terms of the breeding program planned. The addition of a temporary mobile home would provide the enhanced security required as well as allowing animal welfare needs to be met. It would enable the business to grow and reach its full potential.

Information submitted with the application confirms that six parking spaces are available within the site in accordance with the requirements of planning permission 08/00700/FUL. A landscaping plan has not been included as it is considered that the existing hedges provide adequate screening of the proposal. However, the applicant is willing to accept a condition in relation to additional landscaping if it is considered necessary. The applicants live in Sibson, 6 miles from the application site and are concerned about committing further financial investment if on site accommodation cannot be secured

The applicants agent has provided an appraisal and business plan and has referred to two previous appeal decisions in relation to temporary occupational dwellings at sites used for an agricultural/equine activities and equestrian/boarding kennels enterprise. One of which is Staumaur Farm, Breach Lane, Earl Shilton which granted a 3 year temporary planning consent for a workers dwelling.

History:-

10/00469/FUL	Siting of temporary occupational dwelling	Withdrawn	03.08.10
08/00700/FUL	Extension and change of use of an agricultural building to equestrian use as 20 stables, tack room and storage, together with the formation of a manège	Approved	11.09.08
07/00967/FUL	Change of use of agricultural barn to internal stabling and manège	Withdrawn	25.05.07
07/00598/FUL	Erection of steel agricultural building	Withdrawn	30.07.07



Consultations:-

No objections received from:-

The Director of Environment and Transport (Highways)
The Head of Community Services (Pollution Control)
The Director of Environment and Transport (Footpaths).

No objections subject to note to applicant received from The Head of Community Services (Land Drainage).

Site notice has been displayed and neighbours notified.

One neighbour objection received on the grounds of:-

- a) questions why dwelling is needed
- b) dwellings for sale and rent within village
- c) owner bought land and planned business knowing there was no dwelling with the land
- d) permission could lead to permanent dwelling on site.

Policy:-

Central Government Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' sets out the overarching planning policies on the delivery of sustainable development through the planning system. Paragraph 5 states that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by protecting and enhancing the

natural environment and the quality and the character of the countryside. Paragraph 17 states that planning policies should seek to protect and enhance the quality, character and amenity value of the countryside. Paragraph 19 states that planning decisions should be based on the potential impacts on the environment of development proposals. Significant adverse impacts on the environment should be avoided and alternative options which might reduce or eliminate those impacts pursued.

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

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

Local Development Framework

No specific policies.

Local Plan Policy

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

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

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

Policy T5 requires all new development to achieve the relevant highway standards and vehicle requirements contained with the County Council's design guidance HTD.

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

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

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

Appraisal:-

The main issues with regard to this application are the principle; whether the proposed development satisfies the tests in Appendix A of Planning Policy Statement 7: Sustainable Development in Rural Areas; whether it is essential for the proper functioning of the enterprise for one or more full time workers to be available at most times of the day and night (the functional test); whether the enterprise is planned on a sound financial basis; whether suitable alternative accommodation exists nearby; and visual impact of the mobile home upon the character and appearance of the surrounding landscape.

Principle

Planning Policy Statement 7:Sustainable Development in Rural Areas (PPS7) seeks to protect the countryside against encroachment. In particular, it states that where special justification for an isolated new house in the countryside relates to the essential need for a worker to live permanently at or near their place of work in the countryside, planning authorities should follow the advice in Annex A to the PPS.

Annex A states that it is essential that all such applications are scrutinised thoroughly with the aim of detecting attempts to abuse the concession that the planning system makes for such dwellings. In particular, it will be important to establish whether the stated intentions to engage in farming, forestry or any other rural-based enterprise, are genuine and reasonably likely to materialise and are capable of being sustained for a reasonable period of time. A financial test must establish if the enterprise has been based on a sound financial basis and the proposal should be supported by clear evidence of a firm intension and ability to develop the enterprise.

Functional Test - Temporary Dwelling

It will also be important to establish that the needs of the intended enterprise require one or more of the people engaged in it to live nearby. PPS7 goes on to say that if a new dwelling

is essential, it should normally, for the first three years, be provided by a caravan, wooden structure which can easily be dismantled, or other temporary accommodation. A function test is set out at paragraph 4 of Annex A and is needed to establish whether it is essential for the proper functioning of the enterprise. Furthermore, it has to be established that the functional need cannot be met by another existing dwelling on the unit or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned.

The issue is therefore whether the proposed temporary dwelling satisfies the tests in Annex A of PPS7, so as to justify the provision of a temporary occupational dwelling in the countryside. PPS7 makes clear that residential development in the countryside may be justified when accommodation is required to enable agricultural, forestry and certain other full time workers to live at, or in the immediate vicinity of, their place of work.

The agent stresses that 'out of hours' attendance is required for the proper operation of the enterprise due to the nature of the activities and for security purposes in respect of the buildings and livestock and livestock welfare. The agent has referred to instances of theft and the expectations of customers for the business to provide a permanent on site staff presence.

Financial Test

A financial test for a temporary dwelling must establish if the enterprise has been based on a sound financial basis and the proposal should be supported by clear evidence of a firm intention and ability to develop the enterprise.

The agent has provided information regarding existing and proposed livestock levels etc. and projected income in order to enable an assessment to be made of the operation and financial viability of the holding in sustaining an occupational dwelling. The agent has referred to the investment which has already been made towards the enterprise and has stated that the applicant has tried to establish the enterprise without a dwelling on site only to find it impossible to provide the necessary on site care for animal welfare and security and provide the service expected by their customers.

Alternative Accommodation

The agent has stated that the requirement for security and proper welfare of livestock could not be met by another existing dwelling within the vicinity because there is no property available that could provide natural surveillance of the site and buildings.

The Borough Council's Agricultural Appraisal Consultant's view is awaited on these matters and will be reported as a late item. His view on the previous application was that the application should not be supported because he considered that although it may be preferable or more convenient for the applicants to live on the site, it is not essential and therefore paragraph 12 (ii) had not been satisfied. He also considered that there was an existing dwelling within the village which would be both suitable and available, and therefore the criteria in paragraph 12 (iv) had not been satisfied.

Siting and Visual Impact

In addition to the above, paragraph 12 (v) states ' other normal planning requirements, e.g. on siting and access, are satisfied'. Paragraph 13 of PPS 7 advises that local authorities should not normally give temporary permissions in locations where they would not permit a permanent dwelling. The site is located within the countryside outside of the settlement boundary to Barton in the Beans. The proposed siting has been amended in the current

application and is now considered to be an acceptable location, away from the immediate site boundary, the adjacent public footpath and taking into account the topography of the site and the size of the temporary dwelling proposed.

Sustainability

Without special justification, the proposed residential development within the countryside would not be considered to comply with the aims of PPS1 in terms of a sustainable form of development.

Conclusion

Both central government guidance and adopted Local Plan policies seek to protect the countryside for its own sake. However, permission for a temporary occupational dwelling on the site should be granted if the application is considered to satisfy the tests of PPS7. In the absence of the comments of The Borough Council's Agricultural Appraisal Consultant at the time of writing the report, the application is recommended for approval but subject to his response being supportive of the proposal.

RECOMMENDATION:- That subject to a satisfactory outcome of the agricultural appraisal in line with the requirements contained within PPS7 being received and the subject to following conditions:-

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

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

Hinckley and Bosworth Core Strategy:- 13

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, NE5, NE12, NE14, RES12 and T5.

- 1 This permission is limited to a three year period from the date of this decision. The building hereby permitted shall be removed and the land restored to its former state on or before 6 January 2014 in accordance with a scheme of work submitted to and approved by the Local Planning Authority,
- 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, block plan, log cabin specification and detailed elevations for log cabin received 23 November 2010.
- 3 The occupation of the dwelling shall be limited to a person engaged solely or mainly employed in the business occupying the plot edged red on the attached plan, and any resident dependants.
- 4 Before any development commences full details of the external finishes and colours to the mobile home/log cabin shall be submitted to and approved by the Local

Planning Authority. The approved external finishes and colours shall be implemented within two months of the erection of the mobile home/log cabin on site.

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 The site lies within an area of countryside where the Local Planning Authority would not normally grant permission for residential development. And, to avoid the proliferation of new dwellings to accord with Planning Policy Statement 7 and policies RES12 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 4 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 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.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The suitability of the ground strata for soakaway drainage should be ascertained by means of a test described in BRE Digest 365, and results approved by Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively, assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
- 6 The septic tank proposal will require the consent of the Environment Agency and must comply with the Agency's conditions.

Contact Officer:- Louise Forman Ext 5682

Item: 10
Reference: 10/00969/OUT
Applicant: Brenmar Developments (Hinckley) Ltd
Location: Land Off Eastwoods Road Hinckley
Proposal: ERECTION OF TWO DWELLINGS (OUTLINE - ACCESS AND LAYOUT ONLY)
Target Date: 31 January 2011

Introduction:-

This application is to be considered at the Planning Committee in accordance with the Scheme of Delegation as previous applications for this site resulted in significant neighbour interest and the consultation period has not expired.

Application Proposal

This application seeks outline planning permission for two dwellings on garden land to the rear of dwellings on Butt Lane and Bradgate Road. Access is proposed from Eastwoods Road.

Permission is sought for the access and layout; all other matters are reserved for approval at a later date.

The application is a revised scheme with a reduced site area and revised layout to two previous applications determined earlier this year. The first application (10/00454/OUT) was refused on the following grounds:-

In the opinion of the Local Planning Authority the proposed scheme has a poor layout with dwellings that do not relate well to each other or the surrounding area, as such it is considered that the scheme does not complement or enhance the character of the surrounding area. It is therefore considered contrary to Planning Policy Statement 3, Housing as revised June 2010; and Saved Policy BE1 of the Adopted Hinckley and Bosworth Local Plan supported by Supplementary Planning Guidance on new residential development.

The second application (10/00642/OUT) which related to a revised layout but the same site area to the refused scheme was approved, subject to conditions.

The current application provides a reduced site and an altered layout to the previously approved scheme.

The Site and Surroundings

The site area is 1,186 square metres and is currently rear garden land to four properties; it belongs to 83/85 Butt Lane and 42/40 Bradgate Road. It comprises mature planting and part is overgrown. The site is accessed from Eastwoods Road across an existing right of way.

The site is located within the settlement boundary for Hinckley as defined in the adopted Hinckley & Bosworth Local Plan. It is surrounded by existing dwellings and gardens, located within an area that is predominantly residential, it is characterised by dwellings on large plots

differing in architectural style and materials of construction. However, previous applications of this nature have been approved which has changed the overall pattern of development in this area. Adjacent to the application site to the west there are three detached dwellings that front the hammer head at the end of Eastwoods Road. These dwellings were constructed on the back gardens of properties in Butt Lane but have direct access off the Eastwoods Road hammer head taking on the form of an end stop development.

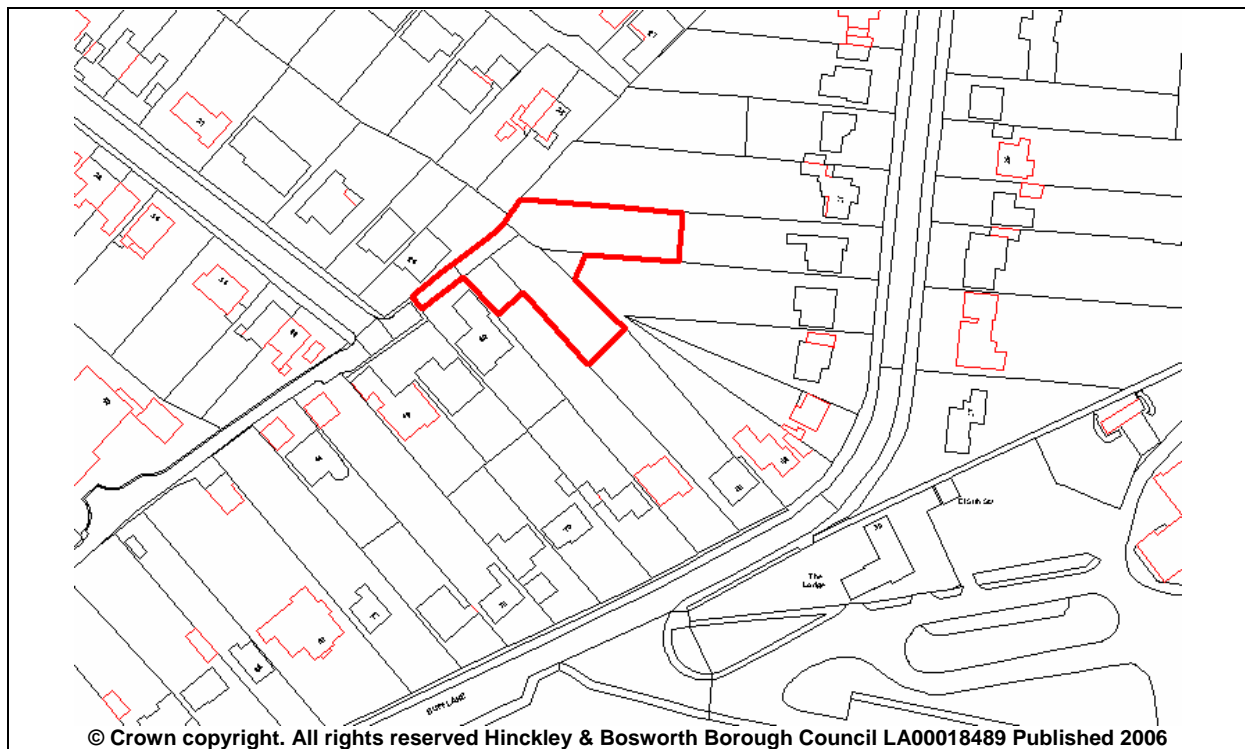
Technical Documents submitted with application

The application is accompanied by a Design and Access Statement which states that the site is in the ownership of four known parties. The sites current use is garden land. The site is surrounded by existing dwellings. It is anticipated that the dwellings will be traditionally constructed and have either integral or attached double garages. The only demolition required will be the removal of existing garden sheds. The approximate height of the new dwellings will be 11 metres. The design and access statement explains that enquiries conducted by solicitors have failed to reveal ownership of the right of way providing the access from Eastwood Road to the application site.

The application has been submitted with a Tree Survey which concludes that the proposed development will not require the removal of any large numbers of healthy or significant trees (four trees in total and a section of conifer hedge). Furthermore, subject to the trees identified for retention being protected as set out in the method statement, no damage to the health of these trees should be caused.

History:-

10/00642/OUT	Residential Development (Outline)	Approved	01.10.10
10/00454/OUT	Residential Development (Outline)	Refused	04.08.10
04/01052/OUT	Renewal of outline consent one dwelling (r/o 84 Butt Lane)	Approved	06.10.04
01/00733/OUT	Renewal of outline consent one dwelling (r/o 84 Butt Lane)	Approved	13.09.01
98/00562/OUT	Erection of one dwelling (r/o 84 Butt Lane)	Approved	19.08.98



Consultations:-

No objection has been received from:-

The Director of Environment and Transport (Highways) (refers to previous comments on application 10/00454/OUT)

The Head of Community Services (Pollution).

No objections subject to notes to applicant received from The Head of Community Services (Land Drainage).

Site notice and Press notice were displayed and neighbours notified.

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

Severn Trent Water Limited

The Head of Street Scene Services (Waste Management)

The Borough Council's Arboricultural Consultant.

The consultation period remains open at the time of writing and closes on 4 January 2011. Any consultation responses received before the closing date will be reported and appraised as a late item.

Policy:-

Central Government Guidance

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

Planning Policy Statement 3 - Housing 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. This Statement was revised in June 2010 to include garden land as an exception to previously developed land. Ministerial advice provides clarification on this change, stating that this is to primarily prevent overdevelopment within residential areas that is out of character.

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 25 - Development and Flood Risk 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 Planning Policy

The decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010. Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies. The government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS's letter of 27 May 2010 and that it should still be regarded as a material consideration. However, these two letters and the SoS's letter of 27 May 2010 need to be considered against the judgment handed down and it is clear from the judgement that the High Court has reinforced the primacy and significance of Regional Strategies in the current planning system. The Court held that if changes are to be made to the status of Regional Strategies then those changes will need to come in the form of primary legislation. Changes cannot be made in the manner proposed by the SoS and it is also reasonable on the basis of the judgment to conclude that the letters of 27 May and the two letters sent following the judgment, whilst they may be regarded as material considerations, have to be weighed against the clarity and force of the judgement and the current legislative position, and in your officers' opinion should not be given any weight.

The East Midlands Regional Plan (adopted March 2009) provides the development strategy for the East Midlands up to 2026. Policy 1 seeks to secure the delivery of sustainable development. Policy 2 promotes better design. Policy 3 directs development towards urban

areas with Hinckley being defined as a Sub-Regional Centre and the main focus for development at the local level. Policy 3 also states that in assessing the suitability of sites for development priority should be given to making the best use of previously developed land in urban or other sustainable locations. Policy 43 sets out regional transport objectives across the region.

Local Policy

Local Development Framework Core Strategy (2009)

Policy 1 requires inter alia, housing development within settlement boundaries that provides a mix of housing types and tenures.

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 Hinckley will be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes.

Hinckley and Bosworth Local Plan (2001)

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

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

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

Policy BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Development should ensure adequate highway visibility for road users and adequate provision for on and off street parking for residents and visitors together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

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

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

Supplementary Planning Guidance/Documents

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

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

Appraisal:-

The main considerations with regards to this application are the principle of development and the acceptability of the access, the proposed layout and impact upon neighbours amenity. All other matters are for consideration at a later date under the reserved matters.

Principle of Development

PPS3 has recently been revised (June 2010) to exclude private residential gardens from the definition of 'previously-developed' land. Paragraph 35 of PPS3 states that the priority for development should be on previously developed land. Ministerial advice provides clarification regarding what this small but significant change to National Policy seeks to achieve. It is interpreted that this is to primarily prevent over development within residential areas that is out of character.

Notwithstanding the changes to PPS3, saved policy RES5 of the adopted Hinckley Local Plan supports residential development within the settlement boundary providing the siting, design, layout and access does not conflict with other relevant policies. The principle of residential development of a larger but substantially similar site for two detached dwellings has been established by the approval of the previous planning permission issued under reference 10/00642/OUT. It is therefore considered that in order for proposal to be considered acceptable it must be considered against saved policy BE1 of the Local Plan. Criterion A of Policy BE1 requires development to complement or enhance the character of the surrounding area.

This scheme proposes a layout which does not address the reason for refusal to the previous application 10/00454/OUT, in that the dwelling proposed for Plot 2 is at an angle to the dwelling on Plot 1. The overall site area is reduced but adequate private amenity space is available for both dwellings. This scheme provides the dwelling proposed for Plot 1 set further back into the site by 1 metre and an attached double garage to the south western side of the site, rather than an integral garage as previously proposed.

Acceptability of the Access

Access to the site is proposed via a right of way from Eastwoods Road. It is considered that parking standards for two dwellings could be achieved within the site. The Highway Authority has no objections and has referred to his previous comments in relation to this proposal, recommending conditional control over parking and surfacing.

Layout and Impact on Neighbours

This proposal provides one dwelling in the rear garden of No 85 Butt Lane and one in the rear garden of No 40 Bradgate Road. Land belonging to 83 Butt Lane forms part of the application site and is shown with a double garage attached to the dwelling to the rear of 85

Butt Lane. Land belonging to 42 Bradgate Road forms part of the application and appears to provide side garden area to the dwelling located to the rear of 40 Bradgate Road.

The position of the proposed dwellings complies with separation standards set out in policy guidance it is therefore unlikely that the development would have adverse impacts upon residential amenity with regards to potential overlooking, overshadowing or overbearing impact. However the layout as proposed appears contrived and results in a poor layout with dwellings that do not relate well to each other or the surrounding area and a development that is not characteristic with, nor complements or enhances the surrounding area.

Other Matters

Trees: The comments of the Council's Tree Consultant have not yet been received in connection with the Tree Report submitted with this application. However, it is likely that the impact on the trees on site will not be significantly different to the impact on them considered during the determination of the previous approved application and is therefore likely to be acceptable.

Sustainability: The site is located within a very short walking distance of the town centre and the services it provides. The character of the immediate area allows for easy pedestrian routes between roads and therefore allows a good range of pedestrian routes.

In line with Policy 24 of the Adopted Core Strategy, residential units to be constructed on this site will need to be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes.

Drainage: The comments of The Head of Community Services (Land Drainage) and Severn Trent Water are awaited, however, during consideration of the previous applications no objection to those proposals were raised but both requested conditions in respect of drainage details to be submitted.

Recycling and Waste Collection: The need for recycling facilities is a material consideration, however the detail of this can be controlled at the reserved matters stage. There is sufficient space on site to adequately store all of the relevant containers.

Play and Open Space: The application site is more than 400m away from any existing open space and therefore this application does not meet the criteria for the requirement of financial contributions towards the provision or maintenance of informal children's play space as laid out in the Council's adopted Play and Open Space Supplementary Planning Guidance.

Conclusion

The proposal has been assessed against Policy BE1 to consider whether it complements or enhances the surrounding area. This proposal, by virtue of the proposed siting results in a poor layout and relationship between the proposed dwellings and surrounding area. As such the application is recommended for refusal.

RECOMMENDATION :- REFUSE, for the following reasons:-

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

Reasons:-

- 1 In the opinion of the Local Planning Authority the proposed scheme has a poor layout with dwellings that do not relate well to each other or the surrounding area, as such it

is considered that the scheme does not complement or enhance the character of the surrounding area. It is therefore considered contrary to Planning Policy Statement 3, Housing as revised June 2010; and Saved Policy BE1 of the Adopted Hinckley and Bosworth Local Plan supported by Supplementary Planning Guidance on New Residential Development.

Notes to Applicant:-

- 1 List of plans used in the determination of this application:- Drawings 02 ZC and 05C received on 6 December 2010

Contact Officer:- Louise Forman Ext 5682

PLANNING COMMITTEE – 5 JANUARY 2011

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)
RE: PLANNING FEES CONSULTATION

1. **PURPOSE OF REPORT**

To seek Planning Committees endorsement of a consultation response to the Department of Communities and Local Government in respect of a proposal to allow Local Planning Authorities to set their own level of planning fees on a cost-recovery basis.

2. **RECOMMENDATION**

That Planning Committee endorses the submission of the attached consultation response to the Department of Communities and Local Government which supports Option 1 which gives Local Planning Authorities the ability to set their own fees.

3. **BACKGROUND TO THE REPORT**

The current provisions for charging planning application fees are set out in section 303 of the Town and Country Planning Act 1990, as substituted by section 199 of the Planning Act 2008. These provisions:

- allow fees to be charged in relation to any function of a local planning authority and for matters ancillary to those functions
- allow the Secretary of State to prescribe fees or a means of calculating fees to be set by someone else (such as a local planning authority)
- allow the Secretary of State to prescribe when a service would be exempt from fees

Section 303 (10) of the Town and Country Planning Act 1990 states that the income from a fee must not exceed the cost of performing the fee-related function (handling, processing and determining planning applications, in this instance). This means that fees cannot be used to make a profit.

In February 2009, the previous Government commissioned independent research from Arup¹ to look at whether planning application fees were covering local authority costs, and to identify methods that authorities could use to set their own charges. Arup's report is available on our website. It shows:

- that authorities are recovering around 90 per cent of their costs, on average
- that between April 2006 and March 2010 (with projections used for 2009 -10) the average cost of handling and determining planning applications was £619, and the average fee received was £569
- that around 35 per cent of development management resources are being allocated to dealing with applications which do not currently incur a fee.

In order to address these issues the Coalition Government has put forward two options.

Option 1 would give local planning authorities control over setting planning application fees. New regulations would set out the principal requirements for local planning authorities (which would include establishing a charging schedule) and exemptions from fees.

Local planning authorities would have to establish a charging scheme which reflects full cost recovery and the principle that the user should pay for the actual service they receive. Authorities would be required to keep their costs to a minimum – helped by local democratic accountability – and should ensure that charges are based on efficient services which remain affordable.

Option 2 would maintain the current fee system

The costs and benefits section of the consultation paper does identify a possibility that Central Government would put a cap on fees but that does not appear to have been incorporated into the two options identified above and set out fully in the paper.

Summary Response

The recommendation within the paper is that Option 1 is the appropriate way forward as this would give local planning authorities the flexibility to charge fees that properly recover the costs they incur in determining planning applications. It is the option that is most consistent with the Government's commitment to localise and decentralise power. It will also introduce greater accountability and transparency into the planning fees system, as local planning authorities will need to be able to demonstrate that their charges are justifiable and based on cost.

It is recommended that this option should be supported in principle.

The paper also explores the ability to charge for applications which are submitted following the withdrawal or refusal of the original application. At present such applications do not incur a fee. This proposal is supported with a caveat that if an application is withdrawn either at the request of or with the agreement of the Planning Authority then a free go or reduced fee may be appropriate. This is detailed in Question 2 of the attached consultation response.

It also suggests that Local Planning Authorities may be able to charge increased fees for retrospective applications. This is supported in principle with caveats set out in the response at Question 3.

If the proposal is taken forward there will be a six month transition period to give authorities time to develop charges which accurately reflect their costs.

The Consultation response is required by 7th January 2011.

4. **FINANCIAL IMPLICATIONS [DB]**

There are none arising directly from this report as it responds to a consultation exercise only. If the proposals being consulted on are being adopted then it is possible that the Council could receive additional income as the fees charged will be based on full recovery of cost and the Council may be able to charge

for applications that it cannot currently charge for. At present it is not possible to quantify the additional income that may accrue.

5. **LEGAL IMPLICATIONS [MR]**

As set out in the report.

6. **CORPORATE PLAN IMPLICATIONS**

None

7. **CONSULTATION**

None

8. **RISK IMPLICATIONS**

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

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

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

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Continuation of fees set by Central Government	Continue to ensure that the service is delivered as cost – effectively as possible	Simon Wood (Head of Planning)

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

None

10. **CORPORATE IMPLICATIONS**

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

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Planning Implications
- Voluntary Sector

Background papers: Consultation Paper: Proposals for changes to planning application fees in England.

Contact Officer: Simon Wood ext 5692

Question 1:

1. **Do you agree that each local planning authority should be able to set its own (non-profit-making) planning application fee charges?**

Strongly Agree

Agree

Neither agree nor Disagree

Disagree

Strongly Disagree

Explanation/Comment:

Local Planning Authorities are facing financial pressures and a requirement to deliver efficient, cost-effective services. The planning function is a statutory function which local authorities are required to deliver. In order to ensure that an effective and efficient level of service can be maintained, the costs of the service in terms of the processing of planning applications should be borne by the customer i.e. the applicant seeking to gain financially from the planning system.

Question 2:

2. **Do you agree that local planning authorities should be allowed to decide whether to charge for applications that are resubmitted following withdrawal or refusal?**

Strongly Agree

Agree

Neither agree nor Disagree

Disagree

Strongly Disagree

Explanation/Comment:

Local Planning Authorities carry out a similar level of work on a resubmitted application as a first attempt. In many instances applicants use the free go to test unacceptable development proposals aware that they may have a second free go. It may also encourage pre-application discussions to ensure applications are acceptable before submission. On a cautionary note it may increase appeals as in some instances appellants will utilise their free go before appealing. An exception could be where the application is withdrawn at either the request of the Local Planning Authority or with its written agreement.

Question 3:

3. **Do you agree that local planning authorities should be able to set higher fees for retrospective planning applications?**

Strongly Agree
Agree
Neither agree nor Disagree
Disagree
Strongly Disagree

Explanation/Comment:

There is currently no penalty for breaches of planning control and this may seek to deter some breaches of control. It may, however, also seek to deter applications to regularise breaches of control and either increase the amount of enforcement action that takes place or allow some minor breaches of control to remain unregularised. This would, however, bring fees into line with fees required when appealing against Ground (a), as a double fee is payable if planning permission has not previously been sought for the development proposal being appealed.

Question 4:

4. **Are there any development management services which are not currently charged for but should require a fee?**

Yes
No

Explanation/Comment:

Pre-application discussions
Listed Building/Conservation Area Consent Applications
An ability to retain an administration fee when returning applications withdrawn prior to registration or if they are incapable of being validated.

Question 5:

5. **Are there any development management services which currently require a fee but should be exempt from charging?**

Yes
No

Explanation/Comment:

It is important that Planning Services are able to recover the costs of the service wherever possible whilst having regard to local circumstances in respect of not inhibiting development and regeneration.

Question 6:

6. **What are the likely effects of any of the changes on you, or the group or business or local authority you represent?**

Comments:

It is possible that developers may reduce development in high charging areas, but Local Planning Authorities, in setting their own fees can choose to make themselves competitive in attracting developers. It may also be possible for Authorities to reduce fees on identified regeneration sites to encourage developers to come forward.

Question 7:

7. **Do you think there will be unintended consequences to these proposals?**

Yes

No

Comments:

It is considered that consequences can be identified as detailed above.

Question 8:

8. **Do you have any comment on the outcomes predicted in the Impact Assessment, in particular the costs and benefits (See Annex B)?**

Yes

No

Comments:

PLANNING COMMITTEE – 5 JANUARY 2011

REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)
RE: APPEALS LODGED AND DETERMINED

1. PURPOSE OF REPORT

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

2. RECOMMENDATION

That the report be noted.

3. BACKGROUND TO THE REPORT

Appeals Lodged

None since last report.

Appeals Determined

None since last report.

4. FINANCIAL IMPLICATIONS

None to note.

5. LEGAL IMPLICATIONS

None to note.

6. CORPORATE PLAN IMPLICATIONS

This document contributes to Strategic Aim 3 of the Corporate Plan

- Safer and Healthier Borough.

7. CONSULTATION

None

8. RISK IMPLICATIONS

None

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

None

10. **CORPORATE IMPLICATIONS**

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

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

Background papers: Appeal Decisions

Contact Officer: Kevin Roeton Graduate Planning Officer ext. 5919

PLANNING COMMITTEE - 5 JANUARY 2010

REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)

RE: APPEALS PROGRESS

1. PURPOSE OF REPORT

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

2. RECOMMENDATION

- 2.1 The report be noted.

3. FINANCIAL IMPLICATIONS

- 3.1 None.

Background Papers:

Contact Officer: Simon Wood, extension 5692

PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 17.12.10

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
	JH	10/00661/OUT	PI	Flude Family Settlement 2004	Land Adjacent to Hinckley Golf Course Leicester Road Hinckley	<i>Awaiting Start Date</i>	
10/00020/PP	JH	10/00408/OUT	PI	Morris Homes - East Ltd	Land Off Hinckley Road Stoke Golding	<i>Start Date</i> Rule 6 Final Comments Proof of Evidence (Due) Inquiry date	16.11.10 28.12.10 18.01.11 22.02.11 22/23.03.11
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> Proof of Evidence (Due) Inquiry Date	11.10.10 11.01.11 8/9.02.11
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	09/00915/OUT	Now Proceeding as a Public Inquiry	Mr John Knapp	26/28 Britannia Road Burbage	<i>Start Date</i> Rule 6 Proof of Evidence (Due) Public Inquiry	15.11.10 27.12.10 01.02.11 1-3.03.11
09/00017/ENF	JC/ES	07/00031/BOC	PI	Mr P Godden	Land at Upper Grange Farm Ratby Lane Markfield	<i>Start Date</i> Statement of Case Public Inquiry (4 days) Temporarily Suspended	06.11.09 On hold pending JR

Decisions Received

Rolling 1 April 2010 to 17 December 2010

Planning

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision		
					Allow	Spt	Dis	Allow	Spt	Dis
18	8	6	2	2	6	2	5	2	0	1

Enforcement

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn