

Date: 24 January 2011

To: All Members of the Planning Committee

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

Copy to all other Members of the Council

(other recipients for information)

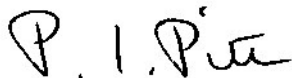
Dear Councillor

There will be a meeting of the **PLANNING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **TUESDAY, 1 FEBRUARY 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.

Yours sincerely



Pat Pitt (Mrs)
Corporate Governance Officer

PLANNING COMMITTEE
1 FEBRUARY 2011
A G E N D A

1. APOLOGIES AND SUBSTITUTIONS
- RESOLVED 2. MINUTES
To confirm the minutes of the meeting held on 5 January 2011, attached marked 'P46'.
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 'P47' (pages 1 – 137).
- RESOLVED 8. APPEALS LODGED AND DETERMINED
Report of the Deputy Chief Executive (Community Direction) attached marked 'P48' (pages 138 – 139).
- RESOLVED 9. APPEALS PROGRESS
Report of the Deputy Chief Executive (Community Direction) attached marked 'P49' (pages 140 – 142).

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

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

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

PLANNING COMMITTEE

5 JANUARY 2011 AT 6.35 PM

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

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

Officers in attendance: Ms C Horton, Ms T Miller, Miss R Owen, Mr M Rice and Mr S Wood.

392 **MINUTES (P38 & P39)**

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

RESOLVED – the minutes of the meeting held on 30 November 2010 be confirmed and signed by the Chairman.

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

RESOLVED – the minutes of the meeting held on 14 December 2010 be confirmed and signed by the Chairman.

393 **ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES**

It was noted that there would be an urgent item of business at the end of the agenda which contained exempt information and would therefore be taken in private session.

394 **DECLARATIONS OF INTEREST**

Mr Bannister, Mr Crooks, Mr Gould, Mrs Hall, Mr Hall, Mr Inman, Mr Mayne, Mr Nichols and Ms Witherford declared a personal interest in application 10/00969/OUT as they knew the landowner.

395 **DECISIONS DELEGATED AT PREVIOUS MEETING**

The Director of Community and Planning Services reported on the following applications which had been delegated at the meeting on 30 November and 14 December 2010:

- (i) 10/00793/OUT (30 November) – it was reported that the decision had been issued on 7 December;

- (ii) 10/00640/OUT (30 November) – it was reported that the decision of refusal due to the Section 106 Agreement not having been signed had been issued on 2 December 2010;
- (iii) 10/00743/OUT (14 December) – it was reported that the decision had not yet been issued.

Mr Joyce arrived at 6.40pm.

396 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P40)

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) 10/00770/FUL – Erection of agricultural building, Land East of Heath Road, Bagworth – Mr Darren Price

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

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

- (b) 10/00811/FUL – Erection of four stables and feed/tack room, Land north east of Reservoir Road, Thornton – Mr Stubley

Notwithstanding the officer's recommendation that this application be permitted, some Members expressed concern that the applicant had failed to demonstrate the need for this development. It was therefore proposed by Mr Boothby and seconded by Mr O'Shea that the application be refused on this basis.

It was requested by the Head of Planning that voting on this motion be recorded. The vote was then taken as follows:

Messrs Boothby, Morrell, O'Shea and Ward voted FOR the motion (4);

Mr Bannister, Mr Bown, Mr Gould, Mr Hall, Mr Inman, Mr Mayne and Ms Witherford voted AGAINST the motion (7);

Mrs Aldridge, Mr Crooks, Mrs Hall, Mr Joyce, Mr Nichols and Mr Sutton abstained from voting (6).

The motion was therefore declared LOST.

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

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

- (c) 10/00822/FUL – Erection of three new dwellings, 134 Main Road, Sheepy Magna – Mr S Parkinson

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

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

- (d) 10/00847/FUL – 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, Flude House, Rugby Road, Hinckley – Mr Richard Anderson

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

RESOLVED – subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 towards the provision and maintenance of public play and open space facilities, education and affordable housing requirements by 25 January 2011, the Deputy Chief Executive (Community Direction) be granted powers to issue full planning permission subject to the conditions contained in the officer's report. Failure to do so by 25 January 2011 might result in the application being refused.

- (e) 10/00908/FUL – Change of use from retail (class A1) to hot food takeaway (class A5) and retention of an external extractor flue (retrospective), 102 Rugby Road, Hinckley – Mr J Singh

On the motion of Ms Witherford, seconded by Mr Nichols, it was

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

- (f) 10/00800/FUL – Construction of workshop and associated office block and proving ground control rooms, Mira Ltd, Watling Street, Lindley, Higham on the Hill – Mr Ian Lawrence

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

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

- (g) 10/00818/CONDIT – Variation of condition two of planning permission 09/00940/FUL for minor changes to the building design and relocation of tanks, Woodlands Nurseries House, Ashby Road, Stapleton – Woodlands Nurseries House

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

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

- (h) 10/00823/OUT – Demolition of no.42 and erection of four detached dwellings, 42 Britannia Road, Burbage – Ms J Allen

Concern was expressed that the recommended reasons for refusal did not refer to the Burbage Village Design Statement. Officers agreed to investigate and include if appropriate.

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

RESOLVED – the application be refused for the reasons contained in the officer's report and the abovementioned condition if deemed appropriate by the Deputy Chief Executive (Community Direction).

- (i) 10/00920/FUL – Siting of a temporary occupational dwelling (revised application), Land at Congerstone Lane, Barton in the Beans – Mr Matthew Gilliver

Attention was drawn to the amended recommendation in the late items that the application be deferred. It was moved by Mr Sutton, seconded by Mr Crooks and

RESOLVED – the application be deferred.

- (j) 10/00969/OUT – Erection of two dwellings (outline – access and layout only), Land off Eastwoods Road, Hinckley – Brenmar Developments (Hinckley) Ltd

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

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

397 PLANNING FEES CONSULTATION (P41)

Members received a report which proposed a consultation response to the Department of Communities and Local Government. It was noted that any changes could be implemented from October 2011.

Members requested that the response to question 3 should be 'strongly agree' and it was agreed that this would be changed.

Concern was expressed with regard to the cost of enforcement and recovery of costs and it was felt that the Government should look at penalising contravention of planning control.

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

RESOLVED –

- (i) the draft response be agreed for submission with the abovementioned amendment to the response to question 3;
- (ii) Option 1, giving Local Planning Authorities the ability to set their own fees, be supported.

398 APPEALS LODGED AND DETERMINED (P42)

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

RESOLVED – the report be noted.

399 APPEALS – PROGRESS (P43)

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

RESOLVED – the report be noted.

400 CERTIFICATE OF LAWFUL PROPOSED USE (P44)

Members received a report which proposed a course of action in relation to an application for a certificate of proposed lawful use. On the motion of Mr Crooks, seconded by Mr Boothby it was

RESOLVED – the Deputy Chief Executive (Community Direction) be authorised to refuse to grant a certificate of lawful proposed use in relation to application 10/00918/CLU on the grounds that planning permission would be required for the change of proposed use.

401 MATTER FROM WHICH THE PUBLIC MAY BE EXCLUDED

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

RESOLVED - in accordance with Section 100A(4) of the Local Government Act 1972 the public be excluded from the undermentioned item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 3, 5 and 10 of Part I of Schedule 12A of that Act.

402 PLANNING APPEAL AT BRITANNIA ROAD, BURBAGE (P45)

Members received an urgent item which required consideration at this meeting.

Mr Crooks left the meeting at 8.36pm and returned at 8.39pm. Mr Boothby and Mr O'Shea left at 8.48pm.

In relation to the issues raised during discussion, it was agreed that a response be sent to Leicestershire County Council to raise concerns and that it would also be raised at the Highways Forum.

RESOLVED – the report be noted and recommendations as outlined in the conclusion of paragraph 5.6 of the report be supported.

(The meeting closed at 9.05pm)

REPORT P47

PLANNING COMMITTEE

1 February 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 - 1 February 2011 - NUMERIC INDEX

REF. NO.	APPLICANT	SITE	ITEM	PAGE
10/00797/EXT	Alexandra Stone Company Ltd	Alexandra Stone Co Ltd Desford Lane Ratby	01	02
10/00851/EXT	SWIP Limited	Nailstone Colliery Wood Road Nailstone	02	10
10/00883/FUL	Mr Haydn Evans	A O Henton Engineering Co Ltd Cotes Road Burbage	03	64
10/00901/EXT	Grobby Lodge Estate Partnership	Grobby Lodge Farm Markfield Road Grobby	04	79
10/00970/FUL	Ms J Squires	Land Adjacent Lodge Farm Wood Road Nailstone	05	95
10/00962/EXT	Mr Mike Jourdain	Hinckley Island Hotel Watling Street Burbage	06	105
10/00980/FUL	Mr Frank Downes	9 Spa Lane Hinckley	07	115
10/00992/CONDIT	Mr Jeffery Poonawala	Unit E Maple Drive Hinckley	08	124
10/01011/DEEM	Mr Paul Scragg	Richmond Park Richmond Road Hinckley	09	131

Item: 01

Reference: 10/00797/EXT

Applicant: Alexandra Stone Company Ltd

Location: Alexandra Stone Co Ltd Desford Lane Ratby

Proposal: EXTENSION OF TIME FOR EXTANT PLANNING PERMISSION 07/01430/FUL FOR A PROPOSED INDUSTRIAL BUILDING AND DEMOLITION OF EXISTING

Target Date: 10 February 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

This application seeks to extend the time period for the commencement of a scheme for the demolition of part of the existing industrial building and construction of a replacement extension to the Alexandra Stone Works, Desford Lane, Ratby. In addition to the new building, the approved scheme included the provision of a new cement silo, aggregate bins, an aggregate conveyor, and a new wet cast machine with a new over-head gantry crane within the building. A new mezzanine floor was also included within part of the building in connection with the use of the new mixer plant.

The approved scheme enabled the modernisation and upgrade of Alexandra Stones existing facilities, and, when determined in 2008, was considered to provide an improvement to the appearance of the site. Information submitted with the current application states that the applicant has not been able to implement the extant planning permission due to the recent economic downturn.

The new building/extension is larger than the building being demolished. Overall the extension provides a total of 1,058 square metres additional floor space, comprising an increase of 647 square metres to the building floor area and 411 square metres mezzanine floor. The height of the proposed building is 11.9 metres to the ridge, this measures 1.4 metres higher than the existing building. The existing cement silo on site is 13.75 metres high, and the proposed cement silo is 13 metres high.

The Site and Surroundings

The site is 5.75 hectares located on the eastern edge of the Borough boundary surrounded by countryside. It lies to the southeast of Desford Lane. The area to the north west of the site falls within National Forest.

The site itself comprises a complex of buildings including the main concrete manufacturing block plant used for production, curing and storage purposes, a cement silo and aggregate tower, together with a building containing a reception area, showroom and offices, a staff/customer car park and large areas of open hard standing, which are partly used for storage purposes. Some of the buildings are old and in poor repair. One old building partially collapsed and has been removed since the previous application was approved.

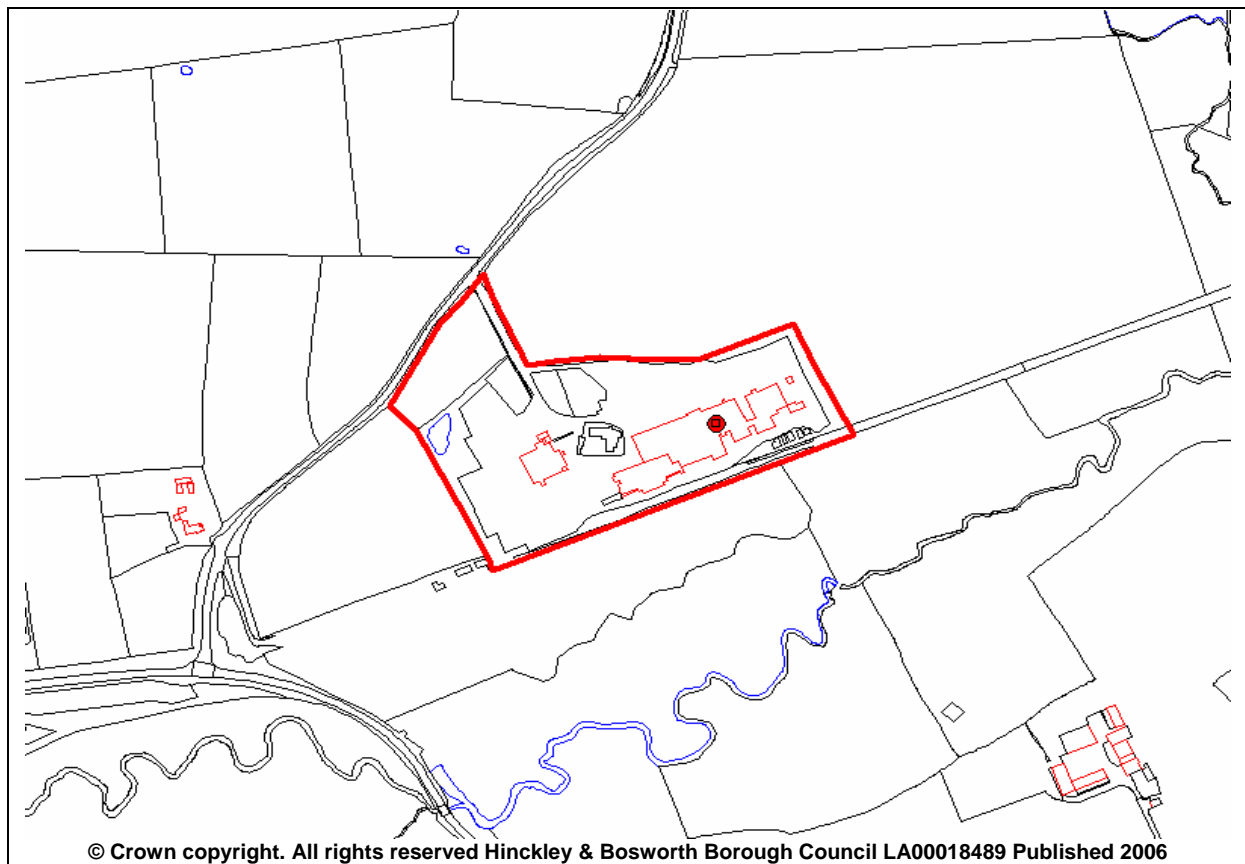
Technical documents submitted with the application

The previous Planning Policy Statement, Design and Access Statement and approved plans have been submitted with the current application. The Planning Statement states that the redevelopment of the plant is consistent with the existing use, and that the redevelopment will remove old inefficient buildings which are in a poor condition. The proposals are in line with the development plan and national planning policy which seek to encourage continued economic development in a way which is compatible with environmental objectives. It also seeks to ensure that there is a range of good quality allocated employment sites to meet specific requirements for potential investors. The proposal will enable the creation of 5 or 6 additional full time jobs at the site, furthermore it will prevent existing jobs at the site being lost as existing equipment and facilities become obsolete. The proposed replacement and extended building and associated facilities are described as being designed to have as little effect as possible on the surrounding environment, situated at the centre of the existing industrial site and therefore largely screened from view to the north and west by other industrial buildings and machinery already located on the site. The proposal will contribute towards improving the appearance and quality of the site.

The application has been submitted with an updated Transport Statement which reflects the situation in 2010 and refers to the previous statement submitted with the original application. It is concluded that the proposed extension will not result in an increase in vehicles travelling to and from the site when compared to the level of traffic generated historically within the existing planning permissions for the site.

History:-

07/01430/FUL	Proposed Industrial Building and demolition of existing	Approved	07.03.08
96/00578/FUL	Erection of cement silo and alterations to elevation of building	Approved	21.08.96
93/00535/4	Industrial development classes B1 And B2 and construction of new access	Approved	30.09.93
77/00291/4	Use of land for the standing of a caravan for security purposes	Approved	09.05.77



Consultations:-

No objections received from:-

The Environment Agency
The Director of Environment and Transport (Highways)
The Head of Community Services (Pollution Control)
The Head of Community Services (Land Drainage).

Site notice displayed and neighbours notified.

Policy:-

Central Government Guidance

Planning Policy Statement 1: 'Delivering Sustainable Development' states in paragraph 5 that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by: making suitable land available for development in line with economic, social and environmental objectives; contributing to sustainable economic development; protecting and enhancing the natural environment, the quality and character of the countryside, and existing communities; ensuring high quality development through good and inclusive design, and the efficient use of resources; and, ensuring that development contributes to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services.

Planning Policy Statement 4: 'Planning for Sustainable Economic Growth' in policy EC2.1 seeks to make the most efficient and effective use of land, prioritising previously developed land which is suitable for re-use. Policy EC6.2 states 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 EC12.1 states that in determining planning applications for economic development in rural areas, local planning authorities should support development which enhances the vitality and viability of market towns and other rural service centres.

Planning Policy Statement 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: 'Biodiversity and Geological Conservation' sets out planning policies for the protection of biodiversity and geological conservation through the planning system. It promotes sustainable development, seeks to conserve, enhance and restore the diversity of England's wildlife and geology; and seeks to contribute to rural renewal.

Planning Policy Guidance Note 13: 'Transport' seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices.

Planning Policy Guidance 24: 'Planning and Noise' outlines the considerations to be taken into account for those activities which will generate noise and advises on the use of conditions to minimise impact of noise.

Planning Policy Statement 25: 'Development and Flood Risk' aims to ensure that flood risk is taken into account at all stages of the planning process and to reduce flood risk to and from new development through location, layout and design incorporating sustainable drainage systems (SUDS).

Regional Policy

The East Midlands Regional Plan (adopted March 2009) provides the development strategy for the East Midlands up to 2026. 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 and the SoS continues to maintain that his earlier correspondence constitutes a material consideration.

Local Development Framework Core Strategy 2009

Policy 7: 'Key Rural Centres' seeks to ensure there is a range of employment opportunities within these centres and supports the enhancement of allocated employment sites in these centres. Transport improvements are required in line with policy 14.

Policy 14: 'Rural Areas: Transport' supports the delivery of viable, high quality public transport links in rural areas along with safe cycle routes.

Hinckley and Bosworth Local Plan 2001

Policy EMP1 relates to existing employment sites within the Borough. It designates the application site as a category B site, where consideration is to be given to proposals for other employment activities, or alternative uses on their own merits in the context of the appropriate design policies of the plan.

Policy EMP2 addresses the expansion of existing employment uses. It provides support for schemes that meet design, layout, landscaping, access, parking and highway requirements. Furthermore, schemes should not harm the amenities enjoyed by occupants of adjoining land and the character, appearance and quality of the site and its immediate environment should be protected and where possible improved.

Policy BE1 relates to the design and siting of development. It seeks a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. It requires developments to: complement or enhance the character of the surrounding area; incorporate landscaping to a high standard; ensure that there is adequate highway visibility for road users and adequate provision for on and off street parking; and not adversely affect the occupiers of neighbouring properties.

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

Other material policy Guidance

The guidance document Greater Flexibility for Planning Permissions published in November 2009 states that in determining applications to extend the time limit for implementing planning permissions "Local Planning Authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date". The guidance continues "Local Planning Authorities should, in making their decisions, focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission".

Employment Land and Premises Study Review - May 2010

This report assesses the supply, need and demand for employment land. The report has been commissioned to provide robust evidence to underpin and inform the Local Development Framework (LDF). The report makes reference to national regional policy and various studies. The key aims of the study are to consider the supply and future need for employment land, assess the viability and future of employment areas, review the impact of small and medium enterprises, consider land and property market supply and demand,

consider the needs of the ten key rural centres identified in the Core Strategy DPD and analyse the new employment allocations identified in the development plan documents. The Study identifies the site as Category B - a fit for purpose employment area, regeneration many mean alternative development is appropriate, but should be resisted if possible.

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.

Site Allocations and Generic Development Control Policies DPD: Consultation Draft Preferred Options Report (February 2009). This document includes the site as an identified employment site within the site allocations preferred options for Ratby.

Appraisal:-

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

Changes in National, Regional and Local Planning Policy

The original scheme was granted on the 7 March 2008 therefore it was considered in light of the current adopted Local Plan Policies. Since 2008 national Planning Policy Statements have been issued on a number of topics, those considered of relevance would be: PPS1 – Delivering Sustainable Development; the Planning and Climate Change Supplement to PPS1, PPS 4 : Planning for Sustainable Economic Growth. and PPS9 – Biodiversity and Geological Conservation.

The original scheme was considered against the same current adopted Local Plan policies BE1, EMP1, EMP2 and T5 which have been 'saved' by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004. In addition, since 2008, the Hinckley and Bosworth Local Development Framework: Core Strategy (2009) has been adopted.

In this case, it is considered that whilst there have been changes to national, regional and local planning policies since the original decision was reached, those changes would not lead to a different conclusion on the acceptability of the proposed development in this case.

Conditions previously imposed

Conditions were imposed on the previous planning decision in relation to submission of a drainage scheme, compliance with details submitted within the application and improvements to the access.

The previous decision contained a condition in respect of drainage details to be submitted. Historically the development control process has sought to control the design of drainage systems, however in more recent years further control is now delivered through the Building Regulations, Severn Trent Water (as the service provider) and the Code for Sustainable Homes 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 condition is considered necessary.

All other conditions are considered relevant and necessary to ensure a satisfactory form of development. Conversely, no other conditions are considered to be required should this application be approved. The previous note to applicant on the storage of fuel oils has been repeated within this decision.

Conclusion

It is considered that there have been no significant changes in national or local planning policies or other material considerations that would lead to a different determination on the acceptability of the original application approved in 2008. The scheme complies with policy with the regard to employment land policy and the countryside location, and subject to the improvements to the existing access required by condition, will be acceptable in terms of highway safety.

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 previous application and the changes in policy since the last permission would not result in a different decision being reached and therefore would be in accordance with the development plan.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009):- Policy 7 and 14.

Hinckley and Bosworth Local Plan (2001):- Policies BE1, EMP1, EMP2, NE5 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 application details including the proposed materials and plans as detailed below, unless otherwise agreed in writing by the Local Planning Authority. Drawings A030840, 207461-14a, 207461-14b, CHQ.07.7414-06c, CHQ.07.7414-01, CHQ.07.7414-03, CHQ.07.7414-04, CHQ.07.7414-07 received on 6 October 2010.
- 3 Before first use of the development hereby permitted, visibility splay improvement works as indicated in the amended Dwg No:- 207461_4a received on 6th October 2010 shall be provided. These shall be in accordance with the standards contained in the current County Council design guide and shall be so maintained thereafter. Nothing shall be allowed to grow above a height of 0.9 metres above ground level within the visibility splays.

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 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 adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

Contact Officer:- Louise Forman Ext 5682

Item: 02

Reference: 10/00851/EXT

Applicant: SWIP Limited

Location: Nailstone Colliery Wood Road Nailstone

Proposal: EXTENSION OF TIME FOR APPLICATION 06/00980/OUT FOR THE REDEVELOPMENT OF FORMER COLLIERY SITE TO INCLUDE STORAGE AND DISTRIBUTION USES (CLASS B8), SMALL BUSINESS UNITS (CLASSES B1(C), B2 AND B8), A COUNTRY PARK, LANDSCAPING OPEN SPACE AND THE FORMATION OF A NEW ACCESS (OUTLINE - WITH ACCESS)

Target Date: 15 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

This application seeks a new outline planning permission to replace an extant outline planning permission (reference 06/00980/OUT) for the remediation and redevelopment of the former Nailstone Colliery site to provide a mix of uses including storage and distribution uses, small business units, the creation of a country park, landscaping, open space, new access arrangements and associated parking arrangements. The previous application reserved all matters except access.

The previous application was recommended for refusal by officers on various grounds including that the proposed development was considered to be in conflict with the development plan. However, Members considered that the economic benefits of the proposal to provide a strategic employment site, together with environmental benefits of the regeneration of the site and creation of a country park were sufficient to overcome policy considerations and resolved to approve the application. Due to the scale of the proposal and it being contrary to the development plan, the application was referred to the Government Office of the East Midlands and determined at a call-in public inquiry in November 2007. The Secretary of State approved the application subject to conditions in a decision notice dated 6th March 2008. The permission is also subject to a legal agreement to secure planning obligations in relation to highway improvement works and the future management of the country park.

For Members further information, appended to this report are: the formal decision of the Secretary of State to approve the application; the relevant Planning Committee minutes, late items agenda and main agenda report in respect of the previous application.

The Site and Surrounding Area

The application site comprises the former Nailstone Colliery site, measures approximately 143 hectares and sits within both Hinckley and Bosworth's Borough and the district of North West Leicestershire (to which an identical application has been submitted). The site lies to the south of Battrum village and is located either side of Wood Road, with the majority of the

site to the west of Wood Road. The western site comprises a central plateau made up of disturbed ground and hardstanding with a crescent of large spoil banks and capped lagoons on its north western, northern and north eastern margins. To the south and south west of the central plateau are the remains of Nailstone Wiggs Wood and settlement ponds. The remaining areas including the eastern side of Wood Road comprise farmland, mainly arable. The levels across the site vary considerably.

Technical Documents Submitted with the Application

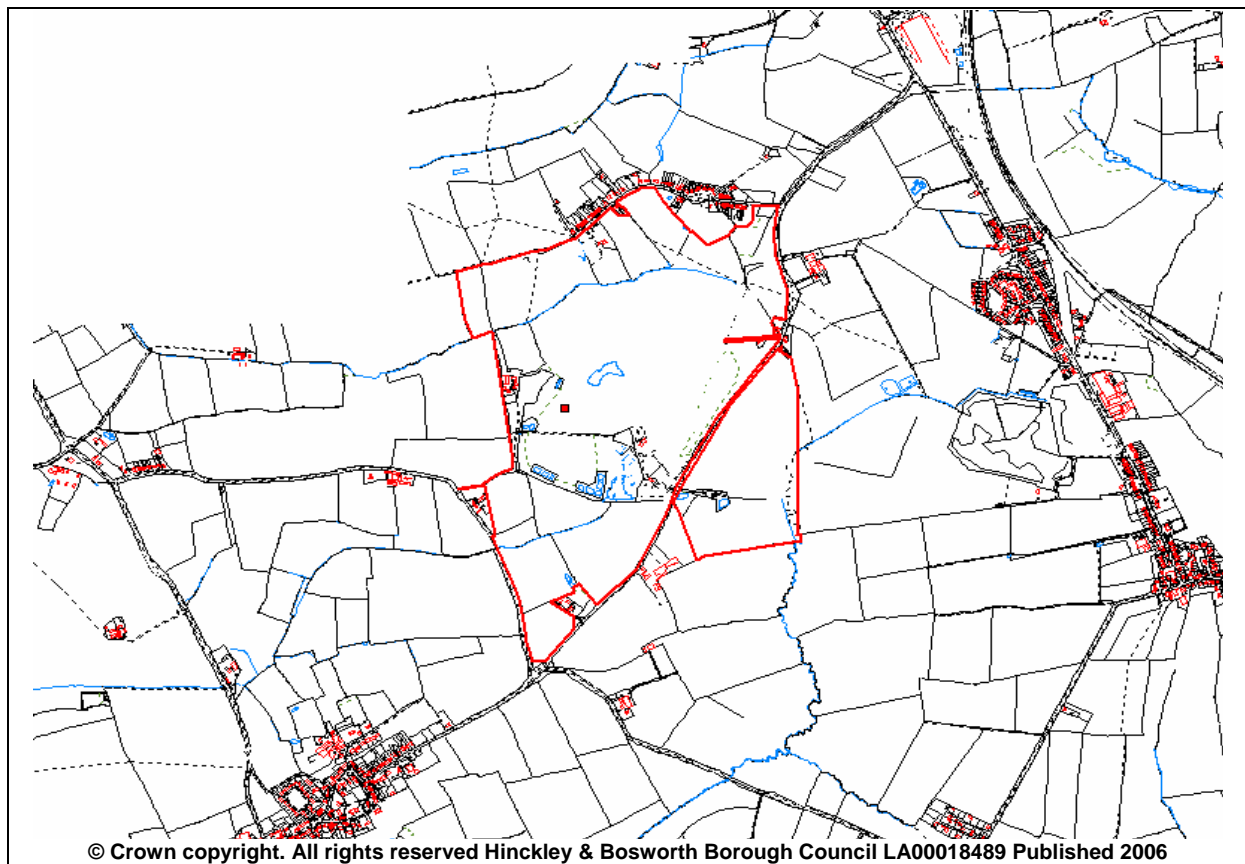
The previous application was accompanied by an Environmental Assessment, which included a Planning Support Statement, Design and Access Statement and indicative Masterplans suggesting a number of options, Transportation Assessment, Ecological Assessment, Landscape Assessment, Noise and Vibration Assessment, Air Quality Assessment, Hydrology, Hydrogeology and Drainage Assessment, Employment Land Study, Archaeology and Cultural Heritage Assessment and a Non-Technical Summary. The current application has been submitted with an updated ecological appraisal which identified the presence within the site of protected species and habitats of significance that would be affected, however, it concludes that any subsequent application for detailed consent should be accompanied by a more detailed ecological impact assessment and that with careful planning and successful implementation of the mitigation and enhancement measures proposed, it is anticipated that the scheme would represent a net benefit to biodiversity.

History:-

06/00980/OUT	Determined via call-in Public Inquiry	Approved	06.03.08
06/00980/OUT	Redevelopment of the Former Colliery Site to Distribution Uses (Class B8), Small Business Units (Classes B1(C), B2 and B8), a Country Park, Landscaping, Open Space and the Formation of a New Access	Approved	05.12.06

Application submitted to Leicestershire County Council for amendments to previously approved restoration plan for tip washing. Borough Council raised no objections, application approved on 25.10.96.

Application submitted to Leicestershire County Council for proposed reclamation of colliery site to public amenity woodlands and grasslands. Borough Council raised concerns regarding the suitability of the proposal; traffic generation and considers the Waste Local Plan be allowed to complete its process towards adoption before a decision is made on this application.



Consultations:-

No objection has been received from:-

Directorate of Chief Executive (Archaeology)
Directorate of Chief Executive (Ecology)
Director of Environment and Transport (Rights of Way)
Leicestershire County Council (Strategic Planning)
Environment Agency
Coal Authority
Head of Community Services (Land Drainage).

No objection subject to conditions has been received from:-

Director of Environment and Transport (Highways)
Highways Agency
Severn Trent Water Limited
Head of Community Services (Pollution).

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

- a) Directorate of Chief Executive (Ecology) requires no contribution
- b) Director of Children and Young Peoples Services (Education) requires no contribution
- c) Director of Environment and Transport (Civic Amenity) requires no contribution
- d) Director of Adults and Communities (Libraries) requires no contribution

- e) Director of Environment and Transport (Highways) requires contributions to public transport commensurate with the existing obligations secured by the s106 legal agreement dated 7.12.07 in order to provide a sustainable travel option to the employees and Country Park users.

North West Leicestershire District Council has no objections to the proposal subject to Hinckley and Bosworth Borough Council being satisfied that it complies with development plan policies.

Site notice and Press notice were displayed and neighbours notified.

A local County Councillor has written in support of the application and 4 further letters of support have been received from neighbouring residents.

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

- a) substantial storage and distribution development has already taken place in this rural area
- b) increase in traffic flow, HGV's and cars will be detrimental to highway network and highway safety
- c) speeding traffic, calming measures required
- d) light pollution in a rural area
- e) impact on the environment, biodiversity and unique habitats.

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

Natural England
National Forest Company
Leicestershire and Rutland Wildlife Trust
Ramblers Association
Cyclists Touring Club
Bagworth and Thornton Parish Council
Nailstone Parish Council
Head of Business Development and Street Scene Services.

Policy:-

Central Government Guidance

Planning Policy Statement 1: 'Delivering Sustainable Development' sets out the overarching principles for sustainable development. Development proposals should be in sustainable locations and should seek to enhance the environment and significant adverse impacts should be avoided.

Planning Policy Statement 4: 'Planning for Sustainable Economic Growth' in policy EC2.1 seeks to make the most efficient and effective use of land, prioritising previously developed land which is suitable for re-use. Policy EC6.2 states 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 EC7.1 states that local planning authorities should support sustainable rural tourism and leisure developments which utilise and enrich the character of the countryside. Policy EC12.1 states that in determining planning applications for economic development in rural areas, local planning authorities should support development which enhances the vitality and viability of market towns and other rural service centres.

Planning Policy Statement 5: 'Planning for the Historic Environment' sets out the governments' planning policies on the conservation of the historic environment. Policy HE12 advises that where the loss of the whole or a material part of a heritage asset's significance is justified, local planning authorities should require the developer to record and advance understanding of the significance of the heritage asset before it is lost, using planning conditions or obligations as appropriate. The extent of the requirement should be proportionate to the nature and level of the asset's significance.

Planning Policy Statement 7: 'Sustainable Development in Rural Areas' promotes sustainable development in rural areas. New development in the countryside should be strictly controlled to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all. New development in rural areas should be of good quality design, in scale with the surroundings and accessible.

Planning Policy Statement 9: 'Biodiversity and Geological Conservation' sets out planning policies for the protection of biodiversity and geological conservation through the planning system. It promotes sustainable development, seeks to conserve, enhance and restore the diversity of England's wildlife and geology; and seeks to contribute to rural renewal.

Planning Policy Guidance Note 13: 'Transport' seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices.

Planning Policy Guidance Note 17: 'Planning for Open Space, Sport and Recreation' promotes recreational uses to improve people's quality of life.

Regional Planning Policy

The East Midlands Regional Plan (adopted March 2009) provides the development strategy for the East Midlands up to 2026. 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 and the SoS continues to maintain that his earlier correspondence constitutes a material consideration.

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 priority being given to making the best use of previously developed land in urban or other sustainable locations. Policy 12 relates to development in the Three Cities Sub-Area and seeks to support growth and regeneration. Policy 20 relates to regional priorities for employment land. Policy 21 considers the allocation of sites for strategic distribution. Policy 26 seeks to protect and enhance the region's natural and cultural heritage. Policy 28 relates to regional priorities for environment and green infrastructure. Policy 29 considers priorities for enhancing the regions biodiversity. Policy 30 considers regional priorities for managing and increasing woodland cover. Policy 32 encourages a regional approach to water resources and water quality. Policy 35 encourages a regional approach to managing flood risk. Policy 42 considers regional priorities for tourism. Policy 43 considers regional transport objectives and seeks to improve safety across the region and reduce congestion.

Local Planning Policy

Local Development Framework: Core Strategy (2009)

Spatial Objective 1: Strong and Diverse Economy seeks to strengthen and diversify the economy by providing sufficient, sustainably located good quality land and premises, with the focus for new employment being in the urban areas.

Spatial Objective 3: Strong and Vibrant Communities seeks to ensure rural communities have access to employment opportunities and leisure facilities.

Spatial Objective 6: Infrastructure Provision seeks to ensure that development contributes to the provision of necessary infrastructure, for example, through developer contributions.

Spatial Objective 7: Healthier Active Communities seeks to improve access to and the provision of community facilities, green infrastructure and walking and cycling routes integrated with public transport.

Spatial Objective 10: Natural Environment and Cultural Assets seeks to enhance and protect the boroughs distinctive landscapes, woodlands and biodiversity.

Spatial Objective 13: Transportation and Need to Travel seeks to encourage a range of transport options through improvements to public transport infrastructure and the use of travel plans.

Policy 14: Rural Areas: Transport supports accessibility within rural areas and delivery of a viable, high quality public transport network.

Policy 21: National Forest requires new development within the National Forest to provide suitable on-site landscaping involving woodland planting and the creation and management of other appropriate habitats, open space provision and new recreational facilities.

Hinckley and Bosworth Local Plan 2001

Policy IMP1 requires appropriate contributions to mitigate the impacts of the development commensurate with the scale and nature of the development proposed.

Policy EMP4 provides criteria to be applied to proposals for employment development on sites other than those allocated for employment uses.

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

Policies BE13, BE14, BE15 and BE16 provide guidance for development proposals that affect archaeological sites.

Policy BE26 seeks to protect the environment and visual amenity through the reduction of light pollution.

Policy NE2 requires that development should not cause material harm through pollution of the air or soil nor suffer from either existing or potential sources of air or soil pollution.

Policy NE5 protects the countryside for its own sake and categorises types of development that are considered acceptable in the countryside. These should be important to the local economy or for recreation purposes and should not have an adverse effect on the appearance or character of the landscape; be in keeping with the scale and character of existing buildings and the general surroundings; be effectively screened by landscaping and not generate traffic likely to exceed the capacity of the highway network or impair road safety.

Policy NE7 affords protection to sites of county and local nature conservation significance.

Policy NE10 provides that any permitted development within local landscape improvement areas shall include comprehensive landscaping proposals to enhance the landscape of these areas.

Policy T5 requires new development to meet the current highway standards in terms of highway design and parking.

Policy T11 requires the submission of a traffic impact assessment for proposals likely to generate significant traffic flows, especially heavy goods vehicles, where there may be a detrimental effect on the local traffic situation.

Policy REC4 specifies criteria to be applied to proposals for recreational facilities.

Policy REC9 requires proposals for development in the countryside to have regard to improving access to the countryside; promoting walking, cycling, horse riding; safeguarding existing rights of way; ensuring new development does not adversely affect the safety and convenience of existing off road routes; and improve, and where possible extend, the existing public footpath and bridleway network.

Policy REC12 is a specific recreation policy for Nailstone Colliery. It allocates an area of 55 hectares for recreational activities, forest planting and landscaping subject to the environmental and highway considerations laid out in Policy REC4. It states that proposals for other forms of development will be resisted.

Other Material Policy Documents and Guidance

The guidance document Greater Flexibility for Planning Permissions published in November 2009 states that in determining applications to extend the time limit for implementing planning permissions "Local Planning Authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date". The guidance continues "Local Planning Authorities should, in making their decisions, focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission".

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.

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.

The Employment Land and Premises Study 2010 in Appendix F includes Nailstone Colliery as a potential employment land site as it has extant planning permission and comments that development is on hold due to the recession.

The Site Allocations and Generic Development Control Policies Development Plan Document: Consultation Draft Preferred Options Report (February 2009) identifies the site as a preferred option for employment allocation (NAI06) and a country park (NAI05).

Hinckley and Bosworth Landscape Character Assessment 2006 identifies Nailstone as falling within the Forest Hills Character Area which is regarded as more resilient to change.

Appraisal:-

In determining the previous application, the Secretary of State considered the relationship of the proposal to the development plan, including the sequential approach and sustainability of the site; the restoration and regeneration benefits; employment land supply and labour market issues; landscape and visual impacts; ecology and nature conservation matters; highways and transport issues; impacts on agricultural productivity and other issues including archaeology. The conclusions of the Secretary of State were that whilst there was conflict with some specific policies in the development plan, that conflict was considered to be outweighed by positive impacts arising from the proposed development and accordingly outline planning permission was granted subject to conditions. The main considerations in determining this application are therefore whether any development plan policies or other material considerations have changed significantly since the grant of permission which may lead to a different conclusion on the acceptability of the application and if the originally imposed conditions are still required.

Changes in National, Regional and Local Planning Policy

Since the approval of the previous outline planning permission there have been a number of changes to national, regional and local planning policies.

Planning Policy Statement 4; 'Planning for Sustainable Economic Growth' was published in 2009 and replaced Planning Policy Guidance Note 4. This national guidance encourages employment development, to be focussed in existing centres to promote vitality and viability and reduce the need to travel. The location, sequential approach and sustainability issues in respect of the site were considered during determination of the previous application and found to be acceptable due to the benefits of economic development and regeneration to the local and wider economy from the provision of a high quality strategic employment site suitable for distribution and other employment uses.

Planning Policy Statement 5: 'Planning for the Historic Environment' was published in March 2010 and replaced Planning Policy Guidance Notes 15 and 16. This national guidance requires opportunities to be taken to contribute to knowledge and understanding of the historic environment by ensuring that appropriate levels of archaeological investigation and recording are carried out where necessary. The previous permission included a condition (24) requiring the implementation of a programme of archaeological investigation to be undertaken and the consultation response from the Directorate of Chief Executive (Archaeology) confirms that archaeological work has already been undertaken as part of the previous planning permission and is satisfactory for the condition to be discharged, therefore no further archaeological work is required as part of the scheme.

The East Midlands Regional Plan was adopted in March 2009 and revised the Regional Spatial Strategy (RSS) 8 for the East Midlands (adopted 2005) and the Leicestershire, Leicester and Rutland Structure Plan 1996-2016 (adopted (2005)). The Secretary of State, in the determination of the previous application, noted that the review of RSS8 was at an advanced stage and that there was a degree of policy continuity between the objectives of the then current and emerging plans.

The Local Development Framework: Core Strategy was adopted in 2009. This document does not contain any policies specifically relating to the Nailstone Colliery site but includes a number of spatial objectives and specific policies relating to transport in rural areas (policy 14) and development in the National Forest (policy 21) that are in conformity with the East Midlands Regional Plan.

The previous application was considered against the same Hinckley and Bosworth Local Plan (adopted 2001) policies which have been 'saved' by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004. The only exception is that policy NE21 has been replaced by policy 21 of the adopted Core Strategy which contains similar aims and objectives relating to development within the National Forest.

As the site benefits from outline planning permission for employment uses, it was considered as a potential employment site as part of the updated Employment Land and Premises Study (May 2010). Although concern was raised within the document over the likelihood of the site being delivered, it was noted that the Council needs to monitor the site in relation to its impact. It is assessed within the document as an undeveloped area of land and it is predicted that the site will become available within 3-5 years.

The Site Allocations and Generic Development Control Policies Development Plan Document: Consultation Draft Preferred Options Report (February 2009) identifies the site as a preferred option for allocation for employment development (NAI06) and a country park (NAI05). However, this document has not been subject to full public consultation or examination and therefore may be subject to change. It should not, therefore, be given significant weight in determining this application.

Whilst there have been a number of changes in national planning guidance, regional planning policy and local planning policy since determination of the previous application, on balance it is considered that the changes in planning policy are not so significant or material that they would lead to a different decision being made on the acceptability of the proposed development of the Nailstone Colliery Site.

Conditions

The conditions imposed on the previous planning permission by the Secretary of State and the reasoning for their imposition at that time has been reconsidered. Should this extension of time application be permitted, the applicant has requested that condition 1 be amended to

extend the period for the application of approval of reserved matters from three to five years. The Secretary of State considered that the restoration and regeneration benefits that would result from the development are paramount, and the provision of new employment opportunities for the local economy should be afforded weight to such a degree that she found in favour of the development even though at the time it was contrary to the development plan. It is considered that given this previous opinion, the scale of the scheme and the current economic situation, the extension of time can be justified in planning terms and is in line with advice in the guidance document 'Greater Flexibility for Planning Permissions' published in November 2009.

The consultation responses from the Director of Environment and Transport (Highways), Severn Trent Water Limited and Head of Community Services (Pollution) repeat their recommendations and conditions for the previous application and a number of conditions were imposed by the Secretary of State in respect of the highway, drainage, land contamination and noise mitigation issues raised. It is considered that these conditions should be imposed if a new planning permission is granted.

The consultation response from the Highways Agency directs the imposition of conditions in respect of the size of development and the requirement for a travel plan. Both conditions (conditions 14 and 15) were imposed by the Secretary of State on the previous permission and should be repeated on any new permission. The Highways Agency also direct the imposition of an additional condition requiring a detailed design specification and implementation of the signalisation of the M1 Junction 22 southbound off-slip and the opposing circulatory carriageway to be submitted for approval. The additional condition (23) is required to mitigate the impacts of the development on the safe operation of the junction in the interests of highway safety as major M1 improvement schemes referred to in the previously submitted Transport Assessment were withdrawn from the Highways Agency Major Schemes Programme in January 2009 and the works are therefore required to ensure mitigation of the impact of the development on the capacity of the highway network.

The consultation response from Leicestershire County Council, Directorate of Chief Executive (Archaeology) confirms that as a result of satisfactory archaeological investigations being undertaken since the previous application was approved, there is no longer any requirement for further archaeological investigation and therefore condition 24 of the previous permission can be omitted.

It is concluded that the majority of the previously imposed conditions remain relevant, reasonable and necessary to ensure satisfactory development of the site and that these should be carried forward to any new outline planning permission, with some minor changes, an addition and an omission as discussed above.

Planning Obligations

The previous permission was subject to a number of planning obligations secured by a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 (as amended) in order to provide infrastructure works in respect of highway improvements, HGV directional signage, public transport and future management of the country park. These planning obligations are still considered to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. The applicant has indicated agreement to the previous planning obligations being imposed on any new consent. A deed of variation document will be required to link the current application to the previously completed legal agreement.

Any requests for developer contributions must be considered alongside the guidance contained within Circular 05/05 and more recently, the Community Infrastructure Levy

Regulations 2010 (CIL) Regulations 2010 which provide a statutory duty in respect of planning obligations. The CIL Regulations confirm that where planning obligations are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. In this case, the planning obligations requested are considered to be justified under the CIL Regulations and in line with Circular 05/05.

Other Representations

Two letters of objection from neighbouring residents have been received raising a number of issues including the substantial storage and distribution development that has already taken place in this rural area, the increase in traffic flow being detrimental to highway network and highway safety, speeding traffic, light pollution in a rural area and impact of the development on the environment, biodiversity and unique habitats. These issues were considered during the determination of the previous application when the Secretary of State determined that the scheme was acceptable subject to conditions, a number of which relate to mitigation of these issues raised.

Conclusion

It is considered that there have been no significant or material changes in national, regional or local planning policies or other material considerations that would lead to a different determination on the acceptability of the previously approved outline planning permission for the regeneration of this important site with a high quality mixed use strategic employment development, together with the environmental benefits of the regeneration of the site and creation of a country park. Whilst the scheme continues to conflict with some specific policies in the development plan, that conflict is still considered to be outweighed by the positive impacts of regeneration of the site and the creation of a country park arising from the proposed development. As a result, given the scale of the proposed development and the current economic situation it is considered that this extension of time application is acceptable in planning terms and is therefore recommended for approval subject to similar conditions and planning obligations to those previously imposed.

If the application is to be approved, the applicant has indicated that a suitable legal agreement in the form of a deed of variation will be completed prior to 15 February 2011 to link the previously completed unilateral undertaking to the new outline permission.

RECOMMENDATION:- That subject to the execution of a suitable agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 in respect of infrastructure works for highway improvements, HGV directional signage, public transport and future management of the country park, the Deputy Chief Executive (Community Direction) be granted powers to issue a new outline planning permission subject to the conditions below. Failure to complete the agreement by 15 February 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 generally in accordance with the development plan and notwithstanding the conflict with specific policies in the development plan, in considering the extant outline planning permission approved by the Secretary of State following a call-in public inquiry, it is considered that the conflict with policy is outweighed by the positive impacts of the regeneration of the site with a high quality mixed use strategic employment

development, together with the environmental benefits of the regeneration of the site and creation of a country park together with highway improvement works.

Local Development Framework: Core Strategy (2009):- policies 14 & 21

Hinckley & Bosworth Local Plan (2001):- policies IMP1, EMP4, BE1, BE13, BE14, BE15, BE16, BE26, NE2, NE5, NE7, NE10, T5, T11, REC4, REC9 & REC12..

- 1 Application for approval of the reserved matters shall be made to the local planning authority not later than five years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

- 2 Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Reason: This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.

- 3 The reserved matters application or applications shall include the following information for the prior written approval by the local planning authority before development commences:

- i) samples and specifications of the materials to be used in the construction of the external surfaces of the buildings;
- ii) the location of all existing trees, groups of trees and hedgerows on the site together with an indication of which it is intended to retain;
- iii) the provision to be made for screen walling or fencing within the development;
- iv) the phasing of the development, including the country park;
- v) the floor levels of the proposed building in relation to existing and finished ground levels;
- vi) the provision to be made for on-site storage of refuse and/or recycling facilities;
- vii) the provision of energy saving measures and renewable energy generating measures within the development including building construction specifications and manufacturers' specifications of any generation equipment and its installation/operation;
- viii) the provision of external lighting.

Reason: This is a planning permission in outline only and the information required is necessary for the consideration of the ultimate detailed proposal.

- 4 The development shall be carried out generally in accordance with Option Plan 1, numbered N14/56, dated August 2006, unless the local planning authority gives its written consent to any variation as part of the approval of reserved matters pursuant to this permission.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 5 Development shall not begin until (i) drainage details incorporating sustainable drainage principles and an assessment of the hydro-geological context of the

development works; (ii) details of the provision of surface water drainage from the parking and hard-standing areas of the development passing through petrol and oil interceptors and trapped gullies; (iii) details of how roof water shall be passed from the site or otherwise treated in accordance with a surface water run-off limitation scheme; and (iv) details of how foul waters from the site shall be treated and/or disposed of in accordance with a scheme of drainage, are submitted to and approved in writing by the local planning authority. No surface water discharge from the development shall drain from the site onto the highway.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, and ensure future maintenance of the surface water drainage system to accord with Planning Policy Statement 25: Development and Flood Risk and Policy NE14 of the adopted Hinckley and Bosworth Local Plan.

- 6 No building shall be erected or trees planted within 4 metres each side of the public rising main sewer which crosses the site. No buildings, structures (including gates, walls and fences) or raised ground levels shall be erected or take place within 8 metres of the top of the bank of any watercourse and/or within 4 metres of any culverted watercourse inside or adjacent to the site unless previously agreed in writing by the local planning authority.

Reason: To maintain essential access for maintenance, repair, and renewal and to protect the structural integrity of the public sewerage system to comply with Policy NE14 of the Hinckley and Bosworth Local Plan.

- 7 Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority; the scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public/buildings/environment when the site is developed. The buildings on the site shall not be occupied and the country park shall not open to the public until the measures approved in the scheme have been implemented in full unless the local planning authority gives its written consent to any variation.

Reason: To ensure the protection of controlled waters to accord with Policy NE14 of the Hinckley and Bosworth Local Plan.

- 8 No development shall take place, including any works of demolition, remediation earthworks, re-contouring, capping and building construction, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) loading and unloading of plant and materials;
- iii) storage of plant and materials used in constructing the development
- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- v) wheel washing facilities;
- vi) measures to control the emission of noise, vibration, dust and dirt during construction;
- vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: To protect the amenities of surrounding properties and in the interest of highway safety to accord with policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.

- 9 Construction work shall not begin until a scheme for protecting the occupiers of noise-sensitive development located around the site from noise generated by the development hereby permitted; including noise from vehicles in operation on the site has been submitted to and approved in writing by the local planning authority; all works which form part of the scheme shall be completed before any part of the development is first occupied.

Reason: To ensure the development does not have an adverse impact on the amenities of surrounding properties in terms of noise to accord with Policies NE2 and BE1 of the adopted Hinckley and Bosworth Local Plan.

- 10 Before development commences a scheme shall be submitted to and approved in writing by the local planning authority for the mitigation or compensation for any habitat loss or displacement of any protected species as a result of the development permitted. The scheme shall also include a full management plan, including measures to conserve and maximise the ecological potential of the site, future monitoring and provision for corrective action. The approved scheme shall be implemented as agreed unless the local planning authority gives its written consent to any variation.

Reason: To ensure the habitat creation is sustainable, well planned and well managed to deliver its potential to accord with Planning Policy Statement 9.

- 11 No development shall take place until full details of both hard and soft landscape works, required by condition 2 above 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 the proposed finished levels or contours; means of enclosure; hard surfacing materials; minor artefacts and structures (including furniture, play equipment, refuse or other storage units, signs and lighting); retained historic landscape features and proposals for restoration, where relevant. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and an implementation programme. The works shall be carried out prior to the occupation of any 'part of the development or in accordance with the programme agreed in writing with the local planning authority.

Reason: To enhance the appearance of the development to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.

- 12 No development shall take place until a schedule of landscape maintenance, including provision for replacement of any failures, for a minimum period of 10 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.

Reason: To ensure that the work is carried out to a reasonable standard and within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.

- 13 No development shall commence until a scheme of footways, cycle ways and bridleways, together with their access to the site and to Nailstone, Bagworth and Battram villages, and any ancillary works related thereto has been submitted to and approved in writing by the local planning authority and no buildings within the development shall be occupied until the works proposed in the scheme have been carried out and completed, unless the local planning authority gives its written consent to any variation.

Reason: 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.

- 14 The development shall comprise the following land use areas with not more than 1,862 square metres of small business units (Class B 1(c), B2 and B8 uses) and not more than 93,109 square metres of distribution storage uses (B8) of which no individual unit shall be less than 10,000 square metres and no subdivision shall occur below this minimum.

Reason: To define the permission and to protect the strategic employment status of the site to accord with Policy EMP1 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 4.

- 15 No development shall take place until a Framework Travel Plan, including details of the mechanism to be used for its delivery, monitoring and enforcement has been submitted to and approved in writing by the local planning authority. The development shall be implemented and thereafter operated in accordance with the measures and timetable stated in the approved Framework Travel Plan unless the local planning authority gives its written consent to any variation.

Reason: 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 and Planning Policy Guidance Note 13.

- 16 No building shall be occupied until space has been laid out within the site for cars and other vehicles to be parked and for the loading and unloading of goods vehicles and for vehicles to turn so that they may enter and leave the site in forward gear. No building shall be occupied until the parking, servicing and turning areas within the site have been drained and surfaced in accordance with details submitted to and approved in writing by the local planning authority and those areas shall not thereafter be used for any purpose other than the parking, turning or loading/unloading of vehicles.

Reason: In the general interests of Highway safety to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.

- 17 No building shall be occupied until space has been laid out within the site for bicycles to be parked and once provided the dedicated space shall be kept available for such use.

Reason: 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 and Planning Policy Guidance Note 13.

- 18 No building shall be occupied until the means of vehicular access has been constructed in accordance with the plan no.15209/003/002/D. The employment site

access road shall have a minimum carriageway width of 7.3 m and minimum footway/cycleway widths of 3 m including a separating strip. Before any building is occupied the internal access drives and turning spaces shall be surfaced, marked and drained in accordance with details to be submitted to and approved in writing by the local planning authority, and thereafter retained to service the development.

Reason:- In the interests of Highway safety to accord with Policy T5 of the Hinckley and Bosworth Local Plan.

- 19 Before any building is occupied the existing gates to the vehicular access shall be removed and any new vehicular access gates, barriers, bollards, chains or other restrictions erected shall be set back a minimum of 60 m from the highway boundary and shall be so hung as to open inwards.

Reason: To 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.

- 20 All existing vehicular accesses, with the exception of the farm track providing access from Wiggs Farm onto the B582 Grange Lane, shall be permanently closed within 7 days of the new access being brought into use and the existing vehicle crossings reinstated within 28 days in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason: 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.

- 21 Before development commences details of the routeing of construction traffic shall be submitted to for approval 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 the local planning authority gives its written consent to any variation.

Reason: 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.

- 22 Before development commences details of the location and construction of the proposed "gateway" feature for Nailstone village shall be submitted to and approved in writing by the local planning authority. The feature shall be provided in accordance with the approved scheme of details before any building on the site is first occupied.

Reason: In the interests of visual amenity and highway safety to accord with policy BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.

- 23 No development shall take place unless and until a detailed design specification for the signalisation of the M1 Junction 22 southbound off-slip and the opposing circulatory carriageway has been submitted to and approved in writing by the local planning authority. The access shall be constructed in accordance with the approved details prior to the first occupation of the development hereby approved.

Reason: To ensure that the M1 Motorway continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from traffic entering and emerging from the application site in the interests of road safety to

accord with policy T5 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Guidance Note 13.

- 24 Before development commences a scheme shall be submitted to and approved in writing by the local planning authority detailing arrangements for the establishment, composition, constitution and powers of a liaison committee to include representatives of the applicants/developer; representatives of other elected bodies and other nominated persons. The committee shall operate during the construction phase of the development and thereafter for a minimum period, in accordance with the approved scheme, of 3 years after completion of development unless otherwise agreed in writing by the local planning authority.

Reason: In order to assess and address as necessary any impact upon the local community that may arise during the construction phase of the development and for a period thereafter to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 In relation to condition 23, the highway mitigation associated with this consent involves works within the public highway, which is land over which you have no control. The Highways Agency therefore requires you to enter into a suitable legal agreement to cover the design and construction of the works. Please contact the Schemes Sponsor, Paul Bodimeade, on 0121 687 2559 at an early stage to discuss the details of the highways agreement.
- 6 In relation to condition 15, the Framework Travel Plan will include the establishment of targets, arrangements for monitoring and review, details of the penalties that will apply in the event that specified targets are not met and a timetable for implementation and review. It will also detail the mechanisms to be employed for ensuring the compliance of individual owners / occupiers with the terms of the travel plan.

Contact Officer:- Richard Wright Ext 5894



www.communities.gov.uk
community, opportunity, prosperity

6 March 2008

Mark Scoot
DTZ
No 1 Colmore Square
Birmingham
B4 6AJ

Our Ref: APP/K2420/A/07/1201506

Your Ref: 06/00980/OUT

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION BY SWIP LTD
FORMER NAILSTONE COLLIERY, WOOD ROAD, NAILSTONE,
LEICESTERSHIRE
PLANNING APPLICATION: 06/00980/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr Keith Smith BA(Econ) dipTP DPA FRTPi ACIS, who held a public inquiry between 27 and 29 November 2007 into your client's outline application for the remediation and redevelopment of the former colliery to provide a mix of uses including 93,109m² of distribution and storage uses (Class B8), 1,862m² of small business units (Use Classes B1(c), B2 and B8), the creation of a country park, landscaping, open space, new access and associated parking arrangements on 143 hectares of land at the former Nailstone Colliery, Wood Road, Nailstone, Leicestershire in accordance with planning application reference 06/00980/OUT, dated 4 September 2006.
2. The Secretary of State directed on 11 April 2007, in pursuance of section 77 of the Town and Country Planning Act 1990, that the application be referred to her instead of being dealt with by the local planning authority, Hinckley and Bosworth Borough Council.

Inspector's recommendation and summary of the decision

3. The Inspector, whose conclusions are reproduced in the annex to this letter, recommended that the application be allowed and that planning permission be granted, subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Department for Communities and Local Government
Mark Plummer, Decision officer
Planning Central Casework Division,
1/H1, Eland House
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Procedural Matters

4. The Secretary of State has had regard to the fact that, at the Inquiry, the applicant submitted an amended plan of the proposed means of access (15209/003/002/D) (IR15.3). For the reasons set out in IR2.1-IR2.2 and IR15.3, the Secretary of State agrees with the Inspector that no party would be prejudiced by the substitution of this plan for the original, and has therefore gone on to determine the application on the basis of this amended plan of proposed means of access.

Environmental Impact Assessment

5. The Secretary of State has taken into account the Environmental Statement and its Addendum which were submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The Secretary of State considers that the Environmental Statement and additional information comply with the regulations; and she agrees with the Inspector that sufficient information has been provided for her to assess the environmental impact of the proposals (IR15.8, IR15.57). The Environmental Statement and Addendum, and other environmental information, including further information provided by the applicant's witnesses and representations from other parties at the inquiry, have been taken into account by the Secretary of State in reaching this decision.

Fall-back position

6. For the reasons given in IR15.9-IR15.11, the Secretary of State agrees with the Inspector that there is no identifiable "fall back" position which gives a reasonable prospect of achievement of restoration of the former colliery site (IR15.57). She recognises that, following the cessation of mining there was a water pollution problem of contamination which required constant on-site treatment at considerable cost (IR15.10). The Secretary of State considers that the prospects for restoration and regeneration of the site would be dependent upon the implementation of the proposals in the development plan or some other form of enabling development capable of providing the necessary funding (IR15.12).

Policy considerations

7. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case, the development plan consists of the Regional Spatial Strategy for the East Midlands (RSS8), published in 2005; the Leicestershire, Leicester and Rutland Structure Plan (LLRSP), adopted in 2005; the Hinckley and Bosworth Borough Local Plan, adopted in 2001; and the North West Leicestershire Local Plan, adopted in 2002. The Secretary of State considers that the development plan policies most relevant to the application are those set out by the Inspector at IR6.2-IR6.17.

9. The Secretary of State has also taken into account the emerging RSS (IR6.18-IR6.22). She notes that the Panel report into the Examination in Public was published during the Inquiry but was not available to parties in written form. The Secretary of State has compared the changes to the emerging RSS contained in the Panel's report with the emerging RSS which was before the Inquiry. She considers that the changes are not so material as to constitute a need to refer back to parties under Rule 17 of the Town and Country Planning (Inquiry Procedure) (England) Rules 2000, or in the interests of natural justice. The Secretary of State affords the policies in the emerging RSS some weight and she considers policies 20 and 20A, 29-31, 46, 47 and 53 of the emerging RSS to be most relevant to this case.
10. The Secretary of State has also had regard to the Hinckley and Bosworth Local Development Framework and the Leicestershire and Leicester Waste Development Framework (IR6.23-IR6.24). Since both documents are at an early stage of development, she affords them little weight.
11. Other material considerations which the Secretary of State has taken into account include: Planning Policy Statement 1 (PPS1): *Delivering Sustainable Development*; Planning Policy Guidance note 4 (PPG4): *Industrial and Commercial Development and Small Firms*; Planning Policy Statement 7 (PPS7): *Sustainable Development in Rural Areas*; Planning Policy Statement 9 (PPS9): *Biodiversity and Geological Conservation*; Planning Policy Guidance note 13 (PPG13): *Transport*; Circular 11/95: *The Use of Conditions in Planning Conditions in Planning Permission*; and Circular 05/2005: *Planning Obligations*. The Secretary of State has also taken into account the National Forest Strategy 2004-2014 (IR6.32).
12. The Secretary of State has also taken into account "*Planning and Climate Change*", the supplement to PPS1, published on 17 December 2007. She does not consider that this raises any new issues relevant to this application that either affect her decision, or require her to refer back to the parties for further representations before reaching her decision. The Secretary of State has also taken into account draft PPS4 "*Planning for economic development*", published for consultation on 17 December 2007, but as this document is still in draft and may be subject to change, she affords it little weight.

Main issues

13. The Secretary of State considers that the main issues in this case are:-
 - a) The relationship of the proposal to the development plan;
 - b) Restoration and regeneration benefits;
 - c) Employment land supply and labour market issues;
 - d) Landscape and visual impacts;
 - e) Ecology and nature conservation matters;
 - f) Highways and transport issues;
 - g) Impacts on agricultural productivity; and
 - h) Other issues.

The relationship of the proposal to the development plan

14. The Secretary of State agrees with the Inspector, for the reasons set out in IR15.13-IR15.16, that the proposal conflicts with the sequential approach to site selection set out in the development plan, especially policies 2 and 3 of the RSS and policies 2A and 2B of the LLRSP. She shares the view of the Inspector that the application site is at the lowest tier in the hierarchy given its location in a rural area away from the nearest urban centre at Coalville.
15. The Secretary of State agrees with the Inspector, for the reasons in IR15.17, that the proposal conflicts with Strategy Policy 8 of the LLRSP and local plan policy NE5 regarding protection of the countryside (IR15.17). She also considers that the employment element of the proposal conflicts with local plan policy REC12, which allocates the whole site for redevelopment into a country park (IR15.18).
16. Overall, the Secretary of State considers that the proposal conflicts with the development plan, and has gone on to consider whether there are any material considerations which outweigh this conflict.

Restoration and Regeneration benefits

17. The Secretary of State has had regard to the claim that only an enabling development would secure the much needed restoration of the application site. For the reasons set out in IR15.20-IR15.21, she considers that there is no realistic prospect of restoration of the site wholly as a country park, and that no lesser degree of development than that proposed that would secure the degree of restoration sought by the Council and the local community.
18. The Secretary of State agrees with the Inspector that the restoration and regeneration benefits set out in IR15.23 are significant in the context of the landscape and visual appearance of the locality, and the restoration and regeneration objectives of development plan policies and the National Forest Strategy (IR15.23). Like the Inspector, she concludes that such factors weigh in favour of the enabling development.

Employment Land supply and Labour market issues

19. The Secretary of State agrees with the Inspector's reasoning and conclusions in IR15.24-IR15.26. She considers that there exists both a quantitative and qualitative shortfall of employment land in north-west Leicestershire. She also considers that the type of development envisaged would meet a specifically identified need for both the region and sub-region, consistent with the objectives of policies in both the current and emerging RSS (IR15.24). The Secretary of State agrees with the Inspector that the provision of employment opportunities and the positive multiplier effect of new incomes on the local economy weigh in favour of the proposal (IR15.25). She also considers that the site has specific benefits in terms of restoration and recreational provision which could not be replicated elsewhere (IR15.26).
20. Overall, the Secretary of State considers that the proposal would comply with the objectives of policies in the development plan for the provision of employment land, and the encouragement of economic development and regeneration

(IR15.59). She also considers that there would be direct benefits to the local and sub-regional economy from the provision of a high quality site suitable for distribution and other employment uses (IR15.61).

Landscape and Visual Impacts

21. The Secretary of State agrees with the Inspector, for the reasons set out in IR15.27-IR15.28, that the application scheme offers the prospect of integration of the site and adjoining land into the evolving landscape forming part of the National Forest with a local network of trails, footways and country parks all of which contribute to the restoration of the north-west part of the former Leicestershire Coalfield (IR15.29). She also considers that enhancement through forest planting and treatment of the former spoil mounds would accord with the landscape enhancement objectives of policies in the development plan, as underpinned by the Hinckley and Bosworth Landscape Character Assessment (IR15.29, IR15.59).

Ecology and Nature Conservation Matters

22. The Secretary of State agrees with the Inspector, for the reasons in IR15.30-IR15.32, that there are no grounds for objection to the proposal derived from the guidance in PPS9 or development plan policies which seek to protect or enhance biodiversity (IR15.33).

Highway and transport issues

23. The Secretary of State accepts that both PPG4 and PPG13 indicate that developments generating substantial freight movements should be located away from congested central areas and residential areas, and ensure adequate access to trunk roads. In this particular case, and having regard to the proposed transport mitigation measures to be secured by way of the Section 106 Unilateral Undertaking and planning conditions, the Secretary of State agrees with the Inspector that the proposal would substantially comply with the objectives of PPG13 (IR15.34-IR15.35).
24. The Secretary of State agrees with the Inspector that public transport accessibility both to the development site and to nearby settlements would be considerably improved through the provision of the dedicated bus service as proposed (IR15.36). She considers that this element of the proposal, secured through the planning obligation, weighs in favour of the project from the standpoint of guidance in PPG13 and policies in the RSS and LLRSP (IR15.36, IR15.59). She also considers that, on the basis of the available evidence, a rail link to the site is unlikely to be economically or environmentally feasible (IR15.37).

Impact on agricultural productivity

25. The Secretary of State agrees with the Inspector's reasoning and conclusions in IR15.38-IR15.41. She considers that neither PPS7 nor the development plan provide policy protection for Grade III quality agricultural land (IR15.39). She further recognises there would be an impact from the severance of tenanted land from the holding of the Bailey family, but it was not suggested that it would render

the business unviable, and she considers that there is an appropriate statutory regime in place to compensate the family (IR15.40). The Secretary of State is also satisfied that there is no breach of Article 1 of the First Protocol to the European Convention on Human Rights caused by the proposal (IR15.40).

Other issues

26. The Secretary of State considers that adverse impacts upon the cultural heritage of the locality would be unlikely, subject to the imposition of a suitable condition dealing with archaeological investigation (IR15.42). She also agrees with the Inspector that ground conditions, noise and vibration and air quality issues would be satisfactorily addressed through the proposed planning conditions (IR15.43).
27. The Secretary of State agrees with the Inspector that the present proposal would not pre-empt or prejudice the final form of the RSS and the policies to be contained therein (IR15.19).

Planning Obligations and Conditions

28. The Secretary of State is satisfied that the Section 106 Unilateral Undertaking meets the policy tests in Circular 05/05 (IR15.44-IR15.46). She also considers that the conditions put forward at the Inquiry, as amended by the Inspector, are necessary and reasonable to secure a satisfactory standard of development and are in accordance with Circular 11/95: *Use of conditions in planning permission* (IR15.47-IR15.56).

Overall Conclusions

29. The Secretary of State considers that the proposal is in conflict with the development plan, but she has gone on to consider whether there are other material considerations that could outweigh this conflict.
30. The Secretary of State finds that there are significant other material considerations relevant in determining this application. She accepts that no lesser degree of development than that proposed would secure the degree of restoration sought by the Council and local community. She also considers that the proposal would not result in harm to the character or quality of the rural landscape as a result of the high quality restoration envisaged. Pollution problems on the site would be satisfactorily addressed.
31. The Secretary of State considers that the proposal would meet a specifically identified need for both the region and sub-region, and that there would be direct benefits to the local and sub-regional economy from the provision of a high quality site suitable for distribution and other employment uses. She also considers that public transport accessibility would be improved, and that the proposal would improve access to the trunk road network.
32. Overall, the Secretary of State considers that the benefits of the proposal outweigh the conflict with the development plan.

Formal Decision

33. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. She hereby allows your client's application and grants outline planning permission for the remediation and redevelopment of the former colliery to provide a mix of uses including 93,109m² of distribution and storage uses (Class B8), 1,862m² of small business units (Use Classes B1(c), B2 and B8), the creation of a country park, landscaping, open space, new access and associated parking arrangements on 143 hectares of land at the former Nailstone Colliery, Wood Road, Nailstone, Leicestershire in accordance with planning application Ref: 06/00980/OUT, dated 4 September 2006, subject to the conditions set out in Annex A to this letter.
34. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
35. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

36. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
37. A copy of this letter has been sent to Hinckley and Bosworth Borough Council and all parties who appeared at the inquiry.

Yours faithfully



Mark Plummer
Authorised by the Secretary of State to sign in that behalf

SCHEDULE OF PLANNING CONDITIONS

Planning Permission - Ref: 06/00980/OUT

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 3) With respect to any condition that requires the prior written approval of the local planning authority, the works thereby approved shall be carried out in accordance with that approval unless subsequently otherwise approved in writing by the local planning authority.
- 4) The reserved matters application or applications shall include the following information for the prior written approval by the local planning authority before development commences :
 - i) samples and specifications of the materials to be used in the construction of the external surfaces of the buildings;
 - ii) the location of all existing trees, groups of trees and hedgerows on the site together with an indication of which it is intended to retain;
 - iii) the provision to be made for screen walling or fencing within the development;
 - iv) the phasing of the development, including the country park;
 - v) the floor levels of the proposed building in relation to existing and finished ground levels;
 - vi) the provision to be made for on-site storage of refuse and/or recycling facilities;
 - vii) the provision of energy saving measures and renewable energy generating measures within the development including building construction specifications and manufacturers' specifications of any generation equipment and its installation/operation;
 - viii) the provision of external lighting.
- 5) The development shall be carried out generally in accordance with Option Plan 1, numbered N14/56, dated August 2006, unless the local planning authority gives its written consent to any variation as part of the approval of reserved matters pursuant to this permission.
- 6) Development shall not begin until (i) drainage details incorporating sustainable drainage principles and an assessment of the hydro-geological

context of the development works; (ii) details of the provision of surface water drainage from the parking and hardstanding areas of the development passing through petrol and oil interceptors and trapped gullies; (iii) details of how roof water shall be passed from the site or otherwise treated in accordance with a surface water run-off limitation scheme and (iv) details of how foul waters from the site shall be treated and/or disposed of in accordance with a scheme of drainage to be submitted to and approved in writing by the local planning authority. No surface water discharge from the development shall drain from the site onto the highway.

- 7) No building shall be erected or trees planted within 4 metres each side of the public rising main sewer which crosses the site. No buildings, structures (including gates, walls and fences) or raised ground levels shall be erected or take place within 8 metres of the top of the bank of any watercourse and/or within 4 metres of any culverted watercourse inside or adjacent to the site unless previously agreed in writing by the local planning authority.
- 8) Development shall not begin until a scheme to deal with contamination of the site has been submitted to and approved in writing by the local planning authority; the scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public/buildings/environment when the site is developed. The buildings on the site shall not be occupied and the country park shall not open to the public until the measures approved in the scheme have been implemented in full unless the local planning authority gives its written consent to any variation.
- 9) No development shall take place, including any works of demolition, remediation earthworks, re-contouring, capping and building construction, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of noise, vibration, dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 10) Construction work shall not begin until a scheme for protecting the occupiers of noise-sensitive development located around the site from noise generated by the development hereby permitted, including noise from vehicles in operation on the site has been submitted to and approved

in writing by the local planning authority; all works which form part of the scheme shall be completed before any part of the development is first occupied.

- 11) Before development commences a scheme shall be submitted to, for approval in writing by, the local planning authority for the mitigation or compensation for any habitat loss or displacement of any protected species as a result of the development permitted. The scheme shall also include a full management plan, including measures to conserve and maximise the ecological potential of the site, future monitoring and provision for corrective action. The approved scheme shall be implemented as agreed unless the local planning authority gives its written consent to any variation.
- 12) No development shall take place until full details of both hard and soft landscape works, required by condition 2 above 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 the proposed finished levels or contours; means of enclosure; hard surfacing materials; minor artefacts and structures (including furniture, play equipment, refuse or other storage units, signs and lighting); retained historic landscape features and proposals for restoration, where relevant. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate and an implementation programme. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the local planning authority.
- 13) No development shall take place until a schedule of landscape maintenance, including provision for replacement of any failures, for a minimum period of 10 years has been submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Development shall be carried out in accordance with the approved schedule.
- 14) No development shall commence until a scheme of footways, cycleways and bridleways, together with their access to the site and to Nailstone, Bagworth and Battram villages, and any ancillary works related thereto has been submitted to and approved in writing by the local planning authority, in consultation with the competent Highway Authority, and no buildings within the development shall be occupied until the works proposed in the scheme have been carried out and completed, unless the local planning authority gives its written consent to any variation.
- 15) The development shall comprise the following land use areas with not more than 1,862 sq m of Class B1(c), B2 and B8 uses and not more than 93,109 sq m of B8 uses of which no individual unit shall be less than 10,000 sq m and no subdivision shall occur below this minimum.
- 16) No development shall take place until a Framework Travel Plan, including details of the mechanism to be used for its delivery, monitoring and enforcement has been submitted to and approved in writing by the local

planning authority, in consultation with the competent Highway Authorities. The development shall be implemented and thereafter operated in accordance with the measures and timetable stated in the approved Framework Travel Plan unless the local planning authority gives its written consent to any variation.

- 17) No building shall be occupied until space has been laid out within the site for cars and other vehicles to be parked and for the loading and unloading of goods vehicles and for vehicles to turn so that they may enter and leave the site in forward gear. No building shall be occupied until the parking, servicing and turning areas within the site have been drained and surfaced in accordance with details submitted and approved in writing by the local planning authority and those areas shall not thereafter be used for any purpose other than the parking, turning or loading/unloading of vehicles.
- 18) No building shall be occupied until space has been laid out within the site for bicycles to be parked and once provided the dedicated space shall be kept available for such use.
- 19) No building shall be occupied until the means of vehicular access has been constructed in accordance with the plans no.15209/003/002/D. The employment site access road shall have a minimum carriageway width of 7.3 m and minimum footway/cycleway widths of 3 m including a separating strip. Before any building is occupied the internal access drives and turning spaces shall be surfaced, marked and drained in accordance with details to be approved in writing by the local planning authority, in consultation with the competent Highway Authority and thereafter retained to service the development.
- 20) Before any building is occupied the existing gates to the vehicular access shall be removed and any new vehicular access gates, barriers, bollards, chains or other restrictions erected shall be set back a minimum of 60 m from the highway boundary and shall be so hung as to open inwards.
- 21) All existing vehicular accesses, with the exception of the farm track providing access from Wiggs Farm onto the B582 Grange Lane, shall be permanently closed within 7 days of the new access being brought into use and the existing vehicle crossings reinstated within 28 days in accord with details to be approved in writing by the local planning authority, in consultation with the competent Highway Authority.
- 22) Before development commences details of the routeing of construction traffic shall be submitted to for approval in writing by, the local planning authority, in consultation with the competent Highway Authority. During the period of construction all traffic to and from the site shall use the agreed route at all times unless the local planning authority, in consultation with the Highway Authority, gives its written consent to any variation.
- 23) Before development commences details of the location and construction of the proposed "gateway" feature for Nailstone village shall be submitted to for approval in writing by, the local planning authority, in consultation with the competent Highway Authority. The feature shall be provided in accordance with the approved scheme of details before any building on the site is first occupied.

- 24) No development shall take place within the application area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work, commencing with an initial exploratory investigation. The development shall be undertaken in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 25) Before development commences a scheme shall be submitted to for approval in writing by the local planning authority detailing arrangements for the establishment, composition, constitution and powers of a liaison committee to include representatives of the applicants/developer, representatives of other elected bodies and other nominated persons. The committee shall operate during the construction phase of the development and thereafter for a minimum period, in accordance with the approved scheme, of 3 years after completion of development unless otherwise agreed in writing by the local planning authority.

Planning Committee Minutes
Dec 2006

REPORT NO. P48

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

PLANNING COMMITTEE

5 DECEMBER 2006 AT 6.30 PM

PRESENT: MR R J FURNISS - CHAIRMAN
MR D E HINTON - VICE-CHAIRMAN

Mrs M Aldridge, Mr C W Boothby, Mr D R Bown, Mrs R Camamile,
Mrs M A Cook, Mrs M J Crooks, Mr W J Crooks, Mr B H Edwards, Mr
R D Ellis, Mrs D Finney, Mr M A Hall, Ms J E Price, Mrs E A Spencer
and Mr J E Stanley.

Officers in attendance: Mr P F Cash, Ms S Chettle, Mr B Cullen, Mrs T
Darke, Ms T Miller, Miss R Owen and Mr S Payne.

367 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Mr C G Joyce and Mr K Vessey
and the substitution of Mrs M J Crooks for Mr Joyce was authorised in accordance
with Council Procedure Rule 4.3.

368 MINUTES (P43)

On the motion of Mr Ellis, seconded by Mrs Camamile it was

RESOLVED -the minutes of the meeting held on 7 November 2006 be
confirmed and signed by the Chairman.

369 DECLARATIONS OF INTEREST

Mr Boothby declared a personal and prejudicial interest in application 06/00953/FUL.

The Head of Culture and Development declared a personal interest in one of the
applications in report P46 as the applicant referred to in paragraph 3.2 was known to
him.

370 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE
DETERMINED (P44)

The Committee considered a schedule of planning applications, together with a list of
late items, and the recommendations of the Head of Culture and Development:

It was moved by Mr Crooks and seconded by Mr Ellis that the recommendations of
the Head of Culture and Development contained in the schedule submitted be
approved.

(a) 06/00980/OUT - Nailstone Colliery, Wood Road, Nailstone - Swip Ltd

Notwithstanding the officers' recommendation to refuse the application,
Members were concerned that no progress had been made with the site in
excess of 10 years and with the possibility of a waste site, this would be a
better option, even if it wasn't their first choice for the site. Members were
advised of the advantages of considering the proposals through the Local
Development Framework process and concerns over potential implications of
approving such a major scheme featured in the Core Strategy ahead of the

formal adoption of the Strategy. Members were also advised that the application would have to be forwarded to the Government Office to determine whether it wished to consider the application.

The amendment that the application be approved was moved by Mrs Camamile, seconded by Mr Crooks and

RESOLVED – the application be approved subject to further negotiations to improve the employment proposal and to seek to retain the ancient woodland where possible.

At the request of the Head of Culture and Development, voting on this application was recorded as follows:

Mrs Aldridge, Mr Boothby, Mrs Camamile, Mrs Cook, Mrs Crooks, Mr Crooks, Mrs Finney, Mr Hall, Ms Price, Mrs Spencer and Mr Stanley voted for the amendment.

Messrs Furniss, Hinton, D Bown, Edwards and Ellis voted against the amendment.

Messrs Boothby and Crooks left the meeting at 7.44pm.

Mr Crooks returned to the meeting at 7.48pm.

Mr Hall left the meeting at 8.25pm. Ms Price left the meeting at 8.38pm.

371 JOINT DCLG AND DEFRA CONSULTATION ON PLANNING AND POLLUTION CONTROL (P45)

Members received a report which considered a response to the Joint DCLG and DEFRA on options for improving the way planning and pollution control regimes work together in delivering new development. It was moved by Mr Bown, seconded by Mr Ellis and

RESOLVED – the responses to the Planning and Pollution Control Consultation be endorsed

372 APPEALS LODGED AND DETERMINED (P46)

A summary was submitted of appeals lodged and determined since the last meeting. Members expressed concern with regard to signage in conservation areas as the authority was trying to raise standards with regards to this whereas the Appeal Inspector had allowed an appeal against refusal of a sign. On the motion of Mr Crooks, seconded by Mr Ellis, it was

RESOLVED – the report be noted.

373 APPEALS - PROGRESS (P47)

A schedule was submitted indicating the stages that various appeals against planning decisions had reached. On the motion of Mr Ellis, seconded by Mr Furniss, it was

RESOLVED – the report be noted.

(The meeting closed at 9.10pm.)

The National Forest commented that they would prefer the option that is least ecologically damaging and the most easily integrated into the landscape setting. All options have been designed so as to minimise ecological impacts, the natural topography and existing and proposed landscaping will have an overall benefit on the local landscape character.

Draft clauses for the inclusion within a Section 106 obligation have been submitted these cover issues such as the creation of a County Park Management Company; the creation of the Country Park; financial contributions of £600,000 towards the management of the park; the operation of a shuttle bus service for at least 3 years; completion of highways/transportation works including: provision of bus stops, free travel passes to new employees; and improvements to road junctions.

Discussions are also underway with the Highways Agency regarding any necessary financial contributions towards potential future improvements at the M1 motorway junction 22 slip road.

Consultation

Further comments have been received from the Director of Highways, Transportation and Waste Management. These re-emphasise a previous issue relating to the provision and/or funding of bus and/or shuttle services and bus facilities and incentives for staff to use public transport. Additional comments were made requiring any gate housing to accommodate the generated traffic in terms of both the type and number of gatehouses and the traffic capacity of their approaches.

The Strategy and Regeneration Manager provides further comments detailing the policies within the emerging Regional Spatial Strategy which will direct development in the East Midlands up to the year 2026. Whilst in draft form currently the policies within the Spatial Strategy will upon adoption be the key document in setting future spatial policies for the Local Authority in its Local Development Framework. The findings of the East Midlands Land Provision Study which was commissioned by the East Midlands Regional Assembly was also highlighted. This is intended to inform the emerging Regional Spatial Strategy and Local Development Frameworks. The findings in the current draft final report suggest that in quantitative terms, the East Midlands is planning for a considerable oversupply of employment land and advises that the region should provide strategic guidance on total land requirements and their distribution across the region. Local Authorities should not assess their individual requirements as this could result in conflicts with other adjoining authorities to the detriment of the region's requirement. It is considered the employment element would be likely to be contrary to the intentions of the emerging Regional Spatial Strategy in that it proposes the use of land not allocated for employment purposes in the development plan without providing sufficient evidence that new employment land would be in a sequentially preferable location, either locally or regionally. There is a remaining balance of 25 hectares of employment land to be allocated within the Borough beyond the year 2011. However the future allocation of any employment land is subject to an assessment of requirements. The Council's Housing and Employment Development Plan Document will address these requirements in accordance with the over-arching requirements, vision and spatial strategy set out in the Council's Core Strategy and Regional Spatial Strategy. Consultation on 'Issues and Options' on the Housing and Employment Development Plan Document are likely to take place in Autumn 2007. The proposal is therefore considered premature to the adoption of the Housing and Employment Development Plan Document, the Core Strategy Development Plan Document and the emerging Regional Spatial Strategy.

The Highways Agency have raised no objection to the proposed development subject to conditions restricting the amount of B1 and B8 use on the site and requesting the submission of a Travel Plan prior to commencement of development.

The comments originally reported from the National Forest advise that, whilst they consider it would be preferable to reclaim the whole of the site for forest related uses, they are generally supportive of the scheme in terms of meeting the National Forest objectives for the area.

Policy

Regional Planning Policy

The Regional Spatial Strategy policies referred to in the main report are those within the adopted Regional Spatial Strategy 8. In addition to those listed Policy 27 seeks to protect and enhance the regions natural and cultural assets; Policy 28 seeks to enhance the regions biodiversity and Policy 29 sets a regional target for increasing woodland cover, this includes protecting Ancient Woodlands.

The Draft East Midlands Regional Plan is currently out to public consultation. Upon adoption (early 2008), this Draft Regional Plan (RSS8) will direct development in the East Midlands up to the year 2026. In due course, policies in the Regional Plan will replace those in adopted Structure Plans and it will be the key document in setting future spatial policies for this Authority in its Local Development Framework.

Policy 2 sets out a sequential approach to selecting land for development to help realise the Plan's vision of sustainable development.

Policy 5 sets out the priorities for development in rural areas in terms of their specific needs.

Policy 13 supports growth and regeneration in the Three Cities Sub-area of Derby, Leicester and Nottingham.

Policy 20 sets out the priorities for employment land to ensure an adequate supply of good quality land for employment uses in sustainable locations.

Policy 23 encourages continued rural diversification where this is both a sustainable form of development and environmentally sound.

Policy 26 advises that sustainable development should ensure the protection and enhancement of the Region's natural and cultural heritage, whilst Policy 28 sets out priorities for enhancing biodiversity.

Policy 29 provides priorities to both protect woodland of acknowledged importance and to take opportunities to increase woodland cover, including the National Forest.

Policies 43 and 44 refer to reducing traffic growth and implement measures for behavioural change to encourage a reduction in the need to travel.

Appraisal

The further information submitted by the applicant is noted, however all reports submitted with the application were sent to the relevant consultees. It is therefore considered that the comments received from consultees have been made in full knowledge of the relevant information and there is no reason to doubt that this is not the case.

Employment Development

The additional information from the Strategy and Regeneration Manager suggests that the proposal for employment development in this location has not been justified in this location. Any consideration for such a large site to come forward at this stage is considered premature to the emerging Regional Spatial Strategy and Local Development Frameworks. The study undertaken by the East Midlands Regional Assembly suggests that the region should provide strategic guidance on land requirements and their distribution across the region as in quantitative terms, the East Midlands is planning for a considerable oversupply of employment land. The study further suggests that Local Authorities should not assess their individual requirements as this could result in conflicts with other adjoining authorities to the detriment of the region's requirements. A cohesive approach is therefore recommended.

Other Issues

The Department for Environment, Food and Rural Affairs have verbally confirmed that there is no data to confirm whether the agricultural land including within the application is anything above Grade 3. As the policy guidance only provides protection for Grade 1, 2 and 3a it is considered that the inclusion of a reason for refusal on grounds of loss of agricultural land would be unjustified.

Further consideration has been given to issues such as hours of commercial operation and deliveries, and it is advanced that if Members consider planning permission is granted it would be unlikely that a condition to restrict hours of operation on such a large employment site would be inappropriate as would restricting delivery times.

Reasons for Refusal

Amend Reason 3 to read

In the opinion of the Local Planning Authority the proposed development results in employment development in a location which is not fully sustainable by virtue of its remote location in the countryside without adequate sequential justification and is therefore contrary to Planning Policy Statement 1; Planning Policy Statement 7; Planning Policy Guidance Note 4; Planning Policy Guidance Note 13; the adopted Regional Spatial Strategy for the East Midlands (RSS8), policies 2, 3 and 22; the Draft East Midlands Regional Plan, policies 2, 5, and 20; the Leicestershire, Leicester and Rutland Structure Plan, Strategy Policy 2A and 2B; and the Hinckley and Bosworth Local Plan, Strategy Objective 5.

Amend Reason 4 to include Policy 29 of the adopted Regional Spatial Strategy.

Amend Reason 5 to include Policies 27 and 28 of the adopted Regional Spatial Strategy.

Amend Reason 7 to include Planning Policy Guidance Note 16

Include a further reason for refusal.

- 8 In the opinion of the Local Planning Authority the proposed development is considered to prejudice the proper consideration of the Borough Council's Preferred Options as would be set out in the emerging Local Development Framework Core Strategy, which is currently in its early stages of preparation.

**Planning Committee Agenda Report
Dec 2006**

Item: 1
Reference: 06/00980/OUT
Applicant: Swip Ltd
Location: Nailstone Colliery Wood Road Nailstone Leicestershire CV13 1GE
Proposal: REDEVELOPMENT OF FORMER COLLIERY SITE TO INCLUDE STORAGE AND DISTRIBUTION USES (CLASS B8), SMALL BUSINESS UNITS (CLASSES B1(C), B2 AND B8), A COUNTRY PARK, LANDSCAPING OPEN SPACE AND THE FORMATION OF A NEW ACCESS

Introduction:-

The application seeks outline planning permission for the remediation and redevelopment of the former Nailstone Colliery site to provide a mix of uses including storage and distribution uses, small business units, the creation of a country park, landscaping, open space, new access arrangements and associated parking arrangements. All matters are reserved except access, however under the new procedures the planning application confirms the location, scale and massing of the development proposed

The application site comprises the former Nailstone Colliery site where coal-mining operations ceased some years ago. The site is approximately 143 hectares and sits within both Hinckley and Bosworth's Borough and the district of North West Leicestershire. The site lies to the south of Battrum village and is located either side of Wood Road, with the majority of the site to the west of Wood Road. The western site comprises a central plateau that is made up of disturbed ground and hardstanding with a crescent of large spoil banks and capped lagoons on its north western, northern and northeastern margins. The spoil banks have been partially restored. To the south and south west of the central plateau are the remains of Nailstone Wiggs Wood and settlement ponds. The remaining areas including the eastern side of Wood Road comprise farmland, mainly arable. The levels across the site vary considerably with a difference of 33 metres, the lowest area being to the south, and the highest the northeastern spoil banks.

The application submitted was accompanied by an Environmental Assessment, which included a Planning Support Statement, Design and Access Statement and indicative Masterplans, Transportation Assessment, Ecological Assessment, Landscape Assessment, Noise and Vibration Assessment, Air Quality Assessment, Hydrology, Hydrogeology and Drainage Assessment, Employment Land Study, Archaeology and Cultural Heritage Assessment and a Non-Technical Summary. Due to the size and nature of the proposed development the Environmental Assessment was required to accord with the Town and Country (Assessment of Environmental Effects) Regulations 1988 as amended by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

The illustrative masterplans submitted with the application demonstrate 3 options, all of which include the same proposals for the country park but have alternative proposals for the central employment area. The proposals indicate that the site can be split into 4 zones with different aims for each of them. These can be summarised as:

- 1) Northern Park Area
Planted up with the densest woodland to link Battrum Wood and the existing Nailstone Wiggs Woods. Main access to the site is proposed from the northeastern corner off Battrum Road, a new car park and cycle route is also proposed. The area closest to

Battrum Village will be a more formal area with a sensory garden and small sitting areas. Meadowland will protect the open views from the dwellings in Battrum. Further away from the village more active uses are proposed with adventure play equipment, picnic areas around the northern lake and an outdoor classroom for education activities. This will be linked to the warden and educational facilities building. All facilities are to be set within woodland that would comprise a variety of species; these could include some more ornamental species that could provide opportunities for demonstration of woodland skills such as coppicing and greenwood working as part of the educational strategy. A new bridle and cycle path along with footpaths are proposed in this area, these are linked to off site routes, and the footpaths would be suitable for both disabled and able-bodied users.

The higher areas within this zone will provide a greater sense of enclosure. A viewing platform is proposed on the highest northeastern point of the mounds. Here there are orienteering trails and mountain bike routes proposed. Aerial ropeways and other woodland activities can also be incorporated once the woodland has matured.

2) Southern Park Area

The focus here will be the large new fishing lake, a small car park for anglers and disabled access is proposed alongside it. This zone also proposes footpath and bridleway links to existing routes. The planting in this area will comprise dense woodland, open areas with scrub planting and grassland. Two small ponds are also proposed to provide an improved habitat for the local amphibian population. Existing hedgerows will be reinforced to create additional wildlife corridors:

3) Eastern Conservation Area

Located to the east of Wood Road, this zone is proposed to be planted up to create native woodland with nature conservation as the main focus. There will be extensive areas of wetland with marshland, reed beds and shallow water surrounded by wet grassland. Existing hedgerows will again be reinforced. Once the area has matured nature trails and a hide could be included. Although this zone would be partly restricted, the proposed Wood Lane cycle and footway will have unrestricted access and will be segregated from the remainder of the area by a dense tree belt.

4) Employment Area

Located in the central core of the site. Whilst there are various options shown they all have common elements that would form the basic strategy for whichever option is chosen. The employment area would be entirely enclosed by woodland and it is intended that this will link into the employment area itself. Access to the area will be gained via the existing entrance off Wood Road. However there is potential for cyclists and pedestrians to enter from the west. The natural topography of the site would limit the visual impact any new development would have. The 3 options are:

- Option 1 - 3 units ranging from 13,970 sq metres to 46,550 sq metres with a small 1,862 sq metre unit adjacent to the main access point.
- Option 2 - 2 units, one at 51,210 sq metres and one at 37,250 sq metres with a 1,862 sq metre unit to the western side of the site.
- Option 3 - a single unit of 93,109 sq metres with a smaller 1,862 sq metre unit along the western side of the site

Building heights would be typically 18 to 19 metres to the ridge, with the small unit of 1,862 sq metres having a ridge height of 12 metres.

The proposals could also provide opportunity to improve local public transport with the provision of a bus stop close to the site and the operation of a local community bus.

History:-

Application submitted to Leicestershire County Council for amendments to previously approved restoration plan for tip washing. Borough Council raised no objections, application approved on 25.10.96.

Application submitted to Leicestershire County Council for proposed reclamation of colliery site to public amenity woodlands and grasslands. Borough Council raised concerns regarding the suitability of the proposal; traffic generation and considers the Waste Local Plan be allowed to complete its process towards adoption before a decision is made on this application.



Consultations:-

No objection raised by:
Nailstone Parish Council
Ibstock Parish Council
The Coal Authority.

No objection subject to conditions has been raised by:
Severn Trent Water
Head of Health and Environment.

Director of Environment and Heritage Services (Archaeology) comment that whilst the core of the development site has been significantly damaged by its use as a colliery the remaining areas forming the peripheries of the development site appear to have been minimally affected by the coal mining. Aspects of the scheme, notably tree planting and creation of lakes could impact upon buried archaeology. Additional archaeological assessment of the proposal is required. This should commence with field walking and/or geophysical survey. Subject to the results of this initial phase a further stage of trial

trenching is recommended and the results of each should be submitted for consideration with the current application. This information should be submitted prior to the planning authority making any decision on the application. However if the planning authority is minded to refuse the application the lack of archaeological information should be an additional reason for refusal to ensure the archaeological potential is given future consideration.

Director of Community Services (Rights of Way) considers that the additional public access proposed will considerably enhance the rights of way network in this area. Full support is given to the creation of two bridleways, however it is considered appropriate that the bridleways are formally dedicated as public rights of way so that they may be added to the definitive map, their surface should also be constructed to the standard of a cycleway so they can form a continuation of the route that passes through Battam Wood. It is considered appropriate that the other routes intended to be provided within the country park comprise a mix of dedicated footpaths and permissive access.

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

- Department of Highways, Transportation and Waste Management (Civic Amenity) require no contribution as there is no residential included within the proposals.
- Director of Community Services (Natural Life) comments that there are a number of sites that have previously been evaluated as being of Parish level ecological significance. Nailstone Wiggs has also previously been evaluated as being of Parish level ecological significance, and this part of the site is to be lost as a result of this development. It is therefore recommended that these sites are identified and incorporated into the design of the development. A buffer zone should be created around each site to ensure that its importance is retained. Environment Policy 3A of the Structure Plan protects habitats of local importance. The proposal results in the loss of two small areas of ancient woodland. Ancient woodland is part of the Leicester, Leicestershire and Rutland Biodiversity Action Plan priority habitat H18 Broad-leaved Woodland. Nailstone Wiggs is also recorded on the English Nature Ancient Woodland Inventory. The current Local Wildlife Site selection criteria allow any woodland listed on the Leicestershire Inventory of Ancient Woodland to qualify as a Local Wildlife Site, giving this site a proposed Local Wildlife Site status. Environment Policy 3A should therefore be applied. Natural England should be consulted if this development is to go ahead with the loss of the ancient woodland. With regards to protected species, the ecological report submitted with the application identifies a number of protected species on the site. Further surveys should be completed as suggested in the report before planning permission is given. The development should be required to provide a planning agreement requiring full mitigation plans for the loss of habitat; full mitigation plans for the protected species on site; further recommended ecological surveys should be completed; a full management plan should be provided to conserve and maximise the ecological potential of the site.
- Head of Commercial and Support Services (Libraries) have requested no financial contribution.
- Head of Community and Support Services (Country Parks) have stated that if the County is approached to take on the future management of the proposed Country Park an endowment would be requested to cover costs.
- Director of Children and Young People's Service (Education) require no contribution, as there is no residential development proposed.

The National Forest considers that it would be preferable for the whole of this site to be reclaimed for forest-related uses. However, it is acknowledged that this proposal would provide a high landscaping to development ratio (118 ha to 25 ha). The country park element of the application would make an important contribution towards meeting the National Forests objectives in the area. It would also link well with other Forest sites in the Battam/Bagworth area. However, there are concerns about the potential habitat losses

that could occur as a result of the development. In particular the loss of areas of Ancient Woodland, pond habitat for great crested newts, a badger sett and lengths of hedgerow. Natural England and the Leicestershire Ecological Record Centre should be consulted to assess the significance of these potential losses. The 1 metre of soil proposed to be imported onto site to spread over the contaminated tip would be a minimum that is required but further advice should be sought about this from the Forestry Commissions Forest Research Agency. It is considered that translocation of topsoil from the woodland areas to areas for new planting could have negative ecological impacts on the areas of existing woodland and is therefore not recommended. Further details are required regarding the management strategy to guide the future use and operation of the park, in particular who the long-term owner/manager may be and what financial provision will be made towards future management. With regards to the employment use the option that proves to be the least ecologically damaging and the most easily integrated into the landscape setting would be preferred. The height of any proposed building should be considered carefully as it can for example take around 100 years for an Oak Tree to reach around 20m in height therefore landscaping to lessen the visual impact could take a significant time to have any major effect. As the site is located within the National Forest any buildings should be of high design that reflects its setting within the forest, for example, incorporating more timber in the design and using sustainable materials and methods where possible.

The Land Drainage Engineer considers it essential that sustainable drainage systems are incorporated into the detailed proposals, preferably also including rainwater harvesting.

The Campaign to Protect Rural England (CPRE) considers this site lies outside the settlement boundary and therefore to permit such a development would be contrary to both local and national policy. The Local Plan identifies the former colliery site for decontamination, and restoration as a country park, which would be the preferred option. The local community is opposed to the site being used for any type of waste disposal, recycling or incinerator plant and there are concerns about illegal gypsy encampments. However, concern is also raised that 25 hectares of employment land would generate greater traffic movements resulting in increased noise and light pollution. Whilst there are many environmental issues that would need to be resolved it is considered that the feasibility of building affordable residential dwellings on the site along with some small business units (Use Class B1) should be explored. The construction of storage and distribution depots (Use Class B8) should be resisted as this would be detrimental to the community, the environment and could possibly create a precedent for further industrial development in the surrounding countryside. There is adequate provision of B8 uses in the locality and the area already has major HGV movements along Wood Road. Further development would attract more pedestrians, cyclists, horse riders and highway safety would need to be improved. The Country Park element of the proposal has merits but would be significantly enhanced if additional fields were developed which link the site with Bagworth. This would provide opportunity to create a wildlife corridor and footpath/cycle trail linking Bagworth Heath Woodlands, the former Bagworth Colliery site, with the former Nailstone Colliery site to connect with Batram Woodland. If approved any landscaping, planting of trees, wildflowers and reed beds must be completed at the first available season with agreement secured to completion dates.

The Borough Council's Ecological Consultant comments that the ecological report submitted is accurate and very thorough. There is a presence of protected and rare species on the site. Great Crested Newts are protected by law along with Badgers and Little Ringed Plover, however Palmate Newts are much rarer within Leicestershire, there being only a couple of other known sites, therefore special management advice should be sought for the pools where these are found. The loss of ancient woodland is not considered necessary. It would take many years to replace even a small area of ancient woodland and therefore it would be better to alter the proposals rather than remove the woodland. Any works affecting Badgers, Great Crested Newts or Bats would need to be carried out with the necessary licences from Natural England. The Little Ringed Plover is a

summer migrant therefore any work involving them will need to be completed prior to them arriving back in this country. It is suggested that the area that is currently open land should be left to naturally succeed into grass/heath rather than planting trees. This is an important and scarce habitat, which is lacking in the National Forest. Skylarks, Hares and Pipits are also present on the site all of which would benefit from retaining this open area on the top of the hill. By allowing natural succession to take place, this would provide an educational resource for staff based in the education centre. It isn't clear who will be responsible for the long-term management of the site or education centre, such considerations should be thought about at an early stage as such ventures can be very costly and need a long term financial commitment.

The Environment Agency have raised no objections subject to planning conditions but suggest that further work be undertaken to characterise the contamination present on the site.

The Ramblers Association supports the proposals for the Country Park and welcome the proposed mixture of footpaths, cycleways, picnic areas and places for the quiet enjoyment of the countryside. However they consider the industrial development is out of character and the buildings will overpower the surrounding landscape. Concerns are raised regarding high security fences, lighting, and additional traffic on local roads and commercial vehicles on unsuitable roads.

Natural England supports the creation of habitat as part of the scheme and state that it is important that this area is planned properly with funds to create and maintain it. Their comments are then broken down and relate to specific areas:

- Loss of Ancient Woodland Inventory Site - object to the scheme on the basis of the loss of the area of Ancient Woodland. PPS9 specifically identifies Ancient Woodland and states that local authorities should not grant planning permission for any development that would result in the loss or deterioration unless the need for and benefits of the development in that location outweigh the loss of woodland habitats. Policy NE7 of the Local Plan echoes this advice. It must therefore be demonstrated that there is sufficient need to justify the loss of an area of woodland that has existed since before 1600 and cannot be recreated. The scheme should be redesigned to accommodate the ancient woodland.
- Bats - It appears there are no buildings on site to be demolished. If this is not the case there will need to be a survey of the buildings by a qualified ecologist at an appropriate time of the year. This should be undertaken prior to planning permission being granted.
- Great Crested Newts - The planned loss of water body, which is known to support great crested newts, will require a licence from Natural England. There were insufficient survey visits for great crested newts to confirm their absence from any of the water bodies on site. These areas will require further surveys to establish presence/absence and population size for the great crested newts. These surveys should be undertaken prior to the determination of the application as they may have implications on the design of the scheme.
- Creation of ponds - Any ponds to be created on site for great crested newts should not be stocked with fish and there must be mechanisms in place to stop fish entering the newt ponds if the area flooded. This should be covered in a mitigation scheme and ensured via the conditions or agreement on the implementation of the strategy.
- Other species - Further surveys for reptiles should be undertaken before work on site commences. There is a need for replacement habitat for brown hares and Little Ringed Plover if the areas currently used by these species are to be lost.

The Leicestershire Footpath Association supports the application and in particular the increased access to this site. They have suggested that there is a definitive footpath link to

public right of way S85 provided. They have also suggested that cyclists and pedestrians should be kept separate.

The Strategy and Regeneration Manager comments that Policy REC12 of the Local Plan seeks to allocate the site for recreational pursuits and that proposals for other forms of development will be resisted. Within the Structure plan there is provision for employment land within the Borough up to 2016 of 122ha. Separate policy applies in respect of strategic employment sites, which are viewed as being reserved for prestige developments, and multi-occupation, primarily in the B1 and B2 Use Classes. This proposal is not viewed to fall within the context of this type of development. Storage and Distribution Employment Policy 6 of the Structure Plan applies a criterion-based policy for development subject to environmental impact and good access. Further in respect of this policy it is regarded as a matter for Local Development Frameworks to define circumstances where development may cause unacceptable environmental consequences. Given the nature of the change it is considered the proposal will have a significant impact on the immediate environment. Furthermore and importantly, provision should be limited to the sequential approach to the location of and suitability of land for development, which is echoed in Regional Spatial Strategy 8. The aim being to not only pursue sustainable development but also to direct development outside the Central Leicestershire Policy Area towards the main towns, to provide a balance of housing and employment provision. The location of Nailstone Colliery is not considered to provide a favourable location for such development as proposed. The emerging Core Strategy although undergoing work as a result of Government Office for the East Midlands requirements for the Borough Council to provide more justification for areas of growth did propose a policy to carefully manage the regeneration of the site, which considers uses related to its strategic location within the National Forest. This includes suitable woodland based employment, tourism, recreation and leisure or renewable energy including the creation of woodland to reflect the context of the National Forest. The revised Regional Spatial Strategy, currently out to consultation, indicates that priorities for regeneration are to be focused on areas of greatest need, particularly those in Principal Urban Areas and Sub Regional Centres that show high levels of deprivation. Economic prosperity will be improved through the improvement of access to labour and markets. In light of the above it is difficult to see how this proposal relates favourably to either existing adopted policies or emerging policy guidance. The Borough Council requires quality employment provision to assist in regeneration and to address issues of local deprivation around Sub Regional Centres as outlined in the Regional Spatial Strategy. The proposal and its location are questioned in terms of addressing employment requirements, justification and sustainability. It is also not clear where or how travel to work patterns will develop in the Nailstone areas, particularly in relation to the uses proposed, which would appear to offer low paid employment opportunities.

The Director of Highways, Transportation and Waste Management comment as follows:

- Sustainability - Although a brownfield site, the location does not appear to be fully sustainable, the applicants have sought to improve the sustainability of the site by attending to walking, cycling and public transport requirements, and a draft travel plan.
- Transport Assessment and Travel Plan - The traffic generation figures in the Transport Assessment are robust and unlikely to be significantly exceeded. Further information provided indicates it is unlikely to exceed a 2-way flow of 4700 vehicles per day (7am - 7pm) at the site entrance; this is immediately split into two directions. Larger warehouses tend to generate less traffic per unit of floor space than smaller warehouses; therefore the applicant is prepared to accept a minimum floor space of 10,000 square metres in respect of any subdivision. Whilst the draft travel plan is helpful and has some potential to reduce the car traffic generated by the site there could be an overarching travel plan into which individual travel plans of the possibly separate operators and the country park would fit. It is estimated that there would be 500 employees, with provision of 809 car parking spaces. The site should therefore be designed with a permanent potential to accommodate 809 spaces, the number actually

provided at any time reflecting employee numbers tempered by the provisions of the Travel Plan to be approved.

- Main Site Access - Improvement will be required to provide satisfactory vehicular access, illustrated in the Traffic Assessment. This will require the hedge to be set back and some advance warning and directional signage.
- Possible Pedestrian, Cycle and Equestrian Access from Grange Lane to the Employment and the Country Park - requirement still being considered and depend on position of bus stops. A Grampian Condition is recommended.
- Possible Access linking to Footpath Q85 serving the Country Park and potentially linking the Employment to Bagworth - requirements will need to be considered. There have already been some improvements and an alternative route in the vicinity of Bagworth. Footpath Q85 could be upgraded to a cycleway or bridleway, and the question of alternative routing east of Wood Road subject to the consent of the relevant landowners. A Grampian Condition is recommended.
- Country Park access off Battram Road (NW Leics District) - Satisfactory access can be achieved. Although the junction of Battram Road with Wood Road is substandard the proposal is unlikely to generate traffic levels that would exacerbate the situation detrimentally.
- Other Accesses to accommodate Public Rights of Way into the Country Park - these will need to be accommodated as demonstrated on the illustrative masterplans. A Grampian Condition is recommended.
- Lorry Routing - The A511, A447, B585 and B582 are already designated lorry routes, including Victoria Road, Station Road, Wood Road, Grange Lane and Bagworth Road. A HGV routing strategy is proposed directing southbound traffic to A447 via Grange Lane. The site will however require advance direction signing and will need to be designated by a suitable name such that it is not mistaken for Nailstone Village.
- Junction Improvements - The junction of Wood Road with Grange Lane and Bagworth Road is required to be converted into a roundabout, which is feasible. This would improve safety and accommodate an increase in right turning vehicles. The junction of Victoria Road with Ellistown Terrace Road and Station Road is within North West Leicestershire District but the requirement relates to the employment proposed within Hinckley and Bosworth Borough. Traffic signals are required, as illustrated in the Traffic Assessment. It will also be necessary to remove one bus stop and move another. The junction of Station Road with Wood Road is within North West Leicestershire District but the requirement relates to the proposed employment within Hinckley and Bosworth Borough. The Traffic Assessment demonstrates that the capacity of the junction with the proposed development traffic would be approached in 2011 and exceeded by 2026. Therefore the provision of traffic signals is required at this junction as illustrated in the Traffic Assessment. The applicants are currently examining the improvement to the M1 junction 22 slip roads. If improvements are required, potentially the county road forming the roundabout may be affected.
- Bus/Public Transport - this matter is still being considered. The current focus is on serving potential employees from the Coalville area and if possible the Hinckley area. There is the question of a shuttle linking the development with settlements in the vicinity of Coalville. There is also the possibility of improving and diverting the existing service. Provision will need to be made in the Section 106 agreement and provision to fit a 6 day 18 hour shift pattern is currently understood to be envisaged by the applicant. Bus stops will need to be provided and paved and lit connections for walking from the bus stops to the employment.
- Routes for pedestrians, cyclists and equestrians - The Park is not going to have significant warden or ranger control and therefore the routes through the park will not be necessarily sufficiently secure for regular commuting purposes. However the proposed trails are understood to have good recreational value.
- Site frontage route - In principle, a footway / cycleway alongside the carriageway of Wood Road along the site frontage should be provided. This should connect with and improve the existing length of footway in NW Leicestershire south of Battram Road. Additional footway / cycleway may be required to connect with any bus stop in Grange

Lane. There is an existing hedge, which may require setting back; ground levels may require making up; and there appears to be intervening properties. A Grampian condition is recommended.

- Route into Nailstone - A joint use footway / cycleway within the highway from the south of the site connection with footway at Nailstone should be provided. This would serve Nailstone residents wishing to walk or cycle to the employment area or country park. A Grampian Condition is recommended.
- Connection with Bridleway R67 - The bridleway should be connected to crossing facilities at the roundabout by a suitable verge treatment in Bagworth Road. A Grampian Condition is recommended.

It is recommended that if permission is granted a Section 106 Agreement be drawn up and conditions imposed relating to the highway issues set out above.

Leicestershire County Council, Strategic Planning advise that the Cabinet notes the recommendation of the Development Control and Regulatory Board, and accepts its view that the proposal has merit by bring back into beneficial use an area of land which is in need of remediation and recognises the public benefit that will result from the country park element of the application. However the Cabinet also recognises that these advantages must be balanced against other considerations and given that the application conflicts with current strategic and local plan policies and the potential impact that approving the proposal would have on the proper consideration of the County Council's Waste Development Framework and Hinckley and Bosworth Borough Council's own Local Development Framework, the Borough Council will need to be satisfied that this is the best or indeed the only way of achieving these acknowledged public benefits; and that North West Leicester District Council be advised of this decision.

North West Leicestershire District Council raises no objections to the proposals. They consider the Hinckley and Bosworth Local Development Framework is the appropriate vehicle to assess the future use of the former Nailstone Colliery site. However, as work on this is at an early stage Hinckley and Bosworth Borough Councils should take its own view on the acceptability (or otherwise) of the scheme in principle in light of existing and emerging planning policies. In doing so, it is considered that sustainability aims and the need to ensure that highway safety and residential amenities are considered. Furthermore, in overall terms the District of North West Leicestershire currently has a healthy supply of serviced employment land, this supply is largely made up by the Castle Donnington Power Station site. Within the Coalville area the supply is much more limited in respect of employment land and premises particularly in relation to the smaller units. In terms of larger units there are only two remaining plots at Bardon so in the near future the south of the District will find it difficult to meet continued demand. Whilst the Nailstone site is within the Borough of Hinckley and Bosworth the site would provide employment opportunities for the population of the District of North West Leicestershire. Therefore the development should be considered acceptable in principle in policy terms, and it is recommended that a scheme should combine a mix of large and small units with the concept of "affordable" employment provision considered.

88 letters of support have been received from local residents, of these letters 52 also strongly object to the proposals within the County Council's draft LDF for the site to be allocated for landfill. Comments of support include:

- i) Will clean the site up and address existing water contamination problems
- ii) Provide a country park with nature trails, educational facilities and quieter recreational pursuits
- iii) New business and job opportunities
- iv) Provision of public transport
- v) This would provide a fitting memorial to all those that worked in the coal mine
- vi) Provide a wealth of opportunity to local residents and visitors
- vii) Preferable to County Council proposals as a incineration/landfill site

- viii) An environmentally friendly scheme
- ix) Would meet local need for recreational facilities
- x) Would be in keeping with the character of the area
- xi) Enhancement and protection of wildlife habitat and species
- xii) Provide educational opportunities and linking communities
- xiii) The significant woodland planting will outweigh the loss of the centre of the site to employment uses.

12 letters of objection have been received from local residents, the comments include:

- i) Traffic should be directed towards the motorways and not local roads as traffic volume since the Bardon Business Park is unbelievable
- ii) Lack of certainty within the proposals regarding the provision of facilities such as fishing lake; cycle/pedestrian access; ridge trail; bridle path redevelopment.
- iii) Impact of increased traffic on the local population
- iv) Hours of operation of commercial uses
- v) Measures to reduce light pollution
- vi) Creation of wetland area will affect the adjoining land, which is currently a working arable/beef farm.
- vii) Potential for travellers to use the site once opened up
- viii) Site is currently contaminated, development could lead to water pollution
- ix) The proposal for landscaping/country park is just a smoke screen and sweetener to get the industrial development approved.
- x) Industrial development on this site is contrary to policy
- xi) Already vacant commercial premises in area, these are not needed.
- xii) There is more need for a landfill site within the area than a country park and storage and distribution units.
- xiii) The land could be better used to grow cereals, which will feed humans and animals, and crops to be manufactured into bio-fuels are more environmental friendly than what is proposed.
- xiv) Who will finance, maintain and police the country park?
- xv) Affect the livelihood of local farmers.
- xvi) Increase traffic will adversely affect safety and quality of life.

One further letter of objection has been received from a tenant of the land included within the application. Their concerns include the generation of significant traffic movement in the rural location; and the adverse impact the proposal will have upon their farm business.

At the time of writing the report comments are still awaited from:
Leicestershire and Rutland Trust
Highways Agency.

Development Plan Policies:-

National Planning Policy

Planning Policy Statement 1 sets out the overarching principles for sustainable development. It provides that a high level of protection should be afforded to the most valued townscapes and landscapes, wildlife habitats and natural resources. Development proposals should be in sustainable locations and should seek to enhance the environment and significant adverse impacts should be avoided.

Planning Policy Statement 7 promotes sustainable development in rural areas. It provides that new development in the countryside should be strictly controlled. The Government's aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it

may be enjoyed by all. New development in rural areas should be of good quality design, in scale with the surroundings and accessible.

Planning Policy Statement 9 sets out planning policies for the protection of biodiversity and geological conservation through the planning system. It promotes sustainable development, seeks to conserve, enhance and restore the diversity of England's wildlife and geology; and seeks to contribute to rural renewal and urban renaissance. In particular it states that local wildlife sites have a fundamental role to play in meeting the overall national biodiversity targets contributing to the quality of life and the well being of the community and in supporting research and education. Furthermore it states ancient woodland is a valuable biodiversity resource both for its diversity of species and for its longevity as woodland. Once lost it cannot be recreated. It suggests that Local Planning Authorities should identify areas of ancient woodland that do not have statutory protection, and that Local Planning Authorities should not grant planning permission for development that would result in its loss or deterioration unless the need for, and benefits of, the development in that location outweigh the loss of the woodland habitat.

Planning Policy Guidance Note 4 suggests that economic growth and a high quality environment have to be pursued together. It seeks to help businesses through the planning system and encourages new development in sustainable locations.

Planning Policy Guidance Note 13 seeks to integrate planning and transport at national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and moving freight.

Planning Policy Guidance Note 16 provides guidance for the preservation and recording of archaeological remains on land.

Planning Policy Guidance Note 17 promotes recreational uses to improve people's quality of life. It suggests Local Planning Authorities should seek opportunities to provide better facilities for walkers, cyclists and horse riders.

Regional Planning Policy

Regional Spatial Strategy 8 provides a broad development strategy for the East Midlands up to 2021. It identifies the scale and distribution of provision for new development and priorities for the environment, transport, infrastructure, economic development, agriculture, energy, minerals and waste treatment and disposal. Policy 2 provides a priority order for development to ensure the most sustainable locations are developed. Policy 3 lays out the sustainability criteria for assessment of the suitability of land for development. Policy 22 addresses the regional priorities for employment land emphasising the need for this to be in sustainable locations.

Strategic Planning Policy

Policy at County level is provided by the Leicestershire, Leicester and Rutland Structure Plan 1996 to 2016. The relevant policies are:

Strategy Policy 2A seeks to prioritise the order for land to come forward for development. It prioritises brownfield land in urban areas for development moving onto land within or adjoining rural centres, the last priority is other locations subject, where relevant, to the considerations in other policies.

Strategy Policy 2B sets out criteria to be applied when considering the suitability of land for development. These include accessibility of sites; impact on natural resources and environmental and cultural assets.

Strategy Policy 8 provides protection for the countryside and sets out specific criteria for development to meet, these include small scale development for employment or leisure; land extensive outdoor recreation uses that do not include substantial built development; agriculture or forestry buildings.

Strategy Policy 10 lays down the criteria to be applied for good design.

Strategy Policy 11 sets out the requirement for developers meeting the costs of and infrastructure improvements.

Strategy Policy 13 makes provision for development within the National Forest and lays down criteria to be met.

Environment Policy 1 states that measures should be taken to identify, protect, preserve and enhance areas, sites, buildings and settings of historic or architectural interest or archaeological importance.

Environment Policy 3A provides protection of important species and habitats. It categorises levels of habitat and Policy 3A(iii) specifically protects habitats of local importance.

Environment Policy 5 provides the impetus for encouraging an improved management of woodlands and to increase the total woodland cover of the Plan Area. It also provides that development will only be acceptable where it will not result in the loss of, or damage to ancient woodland.

Resource Management Policy 5 protects the best and most versatile agricultural land except where a need for the development can be demonstrated.

Accessibility and Transport Policy 1 requires developers to maximise the potential for access to and from new development by walking, cycling and public transport.

Accessibility and Transport Policy 2 promotes the provision for walking and to take other measures to reduce number of traffic movements.

Accessibility and Transport Policy 3 promotes the provision for cycling.

Accessibility and Transport Policy 7 lays down the parking requirements for new developments and provides that the maximum limit will only be permitted where the applicant can demonstrate that a higher level is required.

Employment Policy 1 makes provision for the development of land for employment in the industrial, office, warehousing and distribution sectors.

Employment Policy 6 provides for the use of land for storage and distribution purposes and states that the development should not cause unacceptable environmental consequences and any potential for the development to be served by rail or water freight should be maximised.

Employment Policy 7 provides that the provision for employment development within and adjoining rural centres should be made, and will be permitted in other rural settlements either in the form of new development or from the conversion of existing buildings, subject to the development individually or cumulatively with other development being of a scale and type that is appropriate to the form, character and setting of the settlement, and not having an unacceptable impact in terms of traffic generated, access or parking arrangements.

Leisure Policy 4 protects existing public rights of way and promotes improved access into the countryside and encourages the creation of new routes for leisure cycling, walking or horse riding.

The Leicestershire and Leicester Waste Development Framework Site Allocations Preferred Options July 2006 proposes the former Nailstone Colliery site as an allocated site for Waste Recycling, Compositing, Waste Recovery and Landfill for non-inert Waste.

Local Planning Policy

Policy at Local level is provided by the Hinckley and Bosworth Local Plan.

Strategic Objective 5 seeks to reduce growth in energy use through the promotion of sustainable development that seeks to reduce transport movements.

Policy IMP1 recognises that new development impacts on infrastructure and provides the mechanism to require the developer to make contributions towards either new or improved infrastructure and facilities.

Policy EMP4 provides criteria to be applied to proposals for employment development on sites other than those allocated for employment uses. It provides that these should be small-scale employment uses within settlement boundaries, and in rural areas which meet demonstrable local employment needs immediately adjacent to settlement boundaries. The development should then meet the criteria laid out within the policy.

Policy BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Proposals are to be assessed against the criteria within the policy.

Policies BE13, BE14, BE15 and BE16 provide guidance for development proposals that affect archaeological sites. These policies provide guidance for the initial assessment of sites; the field evaluation of sites; the preservation of archaeological remains in situ; and archaeological investigation and recording.

Policy BE26 seeks to protect the environment and visual amenity through the reduction of light pollution.

Policy NE1 requires that proposals, which may require environmental assessment, should be accompanied by sufficient information to demonstrate their effects upon the environment. Such proposals will not be permitted where their effects are likely to be significantly damaging to the environment.

Policy NE2 requires that development should not cause material harm through pollution of the air or soil nor suffer from either existing or potential sources of air or soil pollution.

Policy NE5 protects the countryside for its own sake and categorises types of development that are considered acceptable in the countryside. These should be important to the local economy and cannot be provided within or adjacent to an existing settlement; or for the change of use or reuse of existing buildings; or for sport or recreation purposes. It should also not have an adverse effect on the appearance or character of the landscape; it should be in keeping with the scale and character of existing buildings and the general surroundings; should where necessary be effectively screened by landscaping or other methods; and should not generate traffic likely to exceed the capacity of the highway network or impair road safety.

Policy NE7 affords protection to sites of county and local nature conservation significance. It provides that permission will not be granted where these sites are affected unless an

overriding national or local need is identified for which no alternative site is available. It also provides that where development on such sites is permitted conditions or the use of Section 106 agreements shall ensure minimum disturbance.

Policy NE8 affords protection to protected species and does not allow development that would be likely to result in harm to them. It also provides that where development that affects such species is permitted the use of conditions or a S106 agreement shall ensure minimum disturbance.

Policy NE10 provides that any permitted development within local landscape improvement areas shall include comprehensive landscaping proposals to enhance the landscape of these areas.

Policies NE21, NE22, NE23 and NE24 set out the principles of new development within the National Forest along with the criteria for consideration of proposals, implementation of planting and landscaping schemes and the future maintenance and management of planted areas. It seeks all new development to be of a high quality, the design and materials, the layout and planting of open spaces should reflect the local architecture and the setting of the proposal in the forest. Particular emphasis should be placed on integrated open spaces with footpaths and other routes through the forest.

Policy NE27 affords protection to the best and most versatile agricultural land.

Policy T3 requires new major developments to make provision for bus access and the appropriate supporting infrastructure.

Policy T5 requires new development to meet the current highway standards in terms of highway design and parking.

Policy T9 requires new development to make provision for cyclists and pedestrians and encourage these methods as safe and convenient means of transport.

Policy T11 requires the submission of a traffic impact assessment for proposals likely to generate significant traffic flows, especially heavy goods vehicles, where there may be a detrimental effect on the local traffic situation.

Policy REC4 specifies criteria to be applied to proposals for recreational facilities, relevant criteria to this proposal include: the facilities should not have a detrimental effect upon adjacent land uses, or upon the amenities of adjacent residents; the form, scale and design is in keeping with the area and does not detract from the character of the landscape; adequate parking and access arrangements are provided, and there is capacity in the local road network to accommodate the development; landscaping is provided as an integral part of the proposal; it is not detrimental to the rights of way network; and it would not adversely affect sites of ecological, geological or archaeological significance.

Policy REC9 requires proposals for development in the countryside to have regard to improving access to the countryside; promoting walking, cycling, horse riding; safeguarding existing rights of way; ensuring new development does not adversely affect the safety and convenience of existing off road routes; and improve, and where possible extend, the existing public footpath and bridleway network.

Policy REC12 is a specific recreation policy for Nailstone Colliery. It allocates an area of 55 hectares for recreational activities, forest planting and landscaping including fishing and informal pursuits subject to the environmental and highway considerations laid out in Policy REC4. It states that proposals for other forms of development will be resisted.

Appraisal:-

Principle

The application proposes two distinct forms of development, (i) the country park and (ii) employment development.

Country Park

The Country Park proposals include a variety of recreational uses with a network of footpaths and cycleways. Significant planting is also proposed within the country park to contribute towards the woodland, and this also contributes towards some screening of the proposed employment development. Planning Policy Guidance Note 17 supports recreational uses and supports improved facilities for walkers, cyclists and horse riders. Strategic County Policy also makes provision for such uses promoting improved access into the countryside and encouraging new routes for leisure cycling, walking or horse riding. Strategy Policy 8 allows land extensive outdoor recreation uses that do not include substantial built form. The Hinckley and Bosworth Local Plan supports the proposal of the country park through Policy REC12, which allocates the site for recreational activities, forest planting and landscaping including fishing, and informal pursuits providing there is no adverse impact on the environment and highway network. This policy does state that other forms of development will be resisted. It is therefore considered that the principle of a country park in this location could not be resisted.

Employment Development

Throughout all National Policy Guidance the theme of sustainable development is most prominent. Planning Policy Statement 7 specifically refers to sustainable development in rural areas; this seeks to protect the countryside for its own sake and provides that new development should be strictly controlled. Strategic County Policy seeks to prioritise the order in which land comes forward for development. Regional Spatial Strategy 8 supports this sequential approach to development. It prioritises brownfield land in urban area moving onto land within or adjoining rural centres. The application site is brownfield land but within the countryside. This would therefore fall within the last priority of other locations subject, where relevant, to the consideration in other policies. Employment Policies provide that development should not cause unacceptable environmental consequences and the use of rail or water freight should be maximised. There is no opportunity to use rail or water freight and the impact on the environment will be considered later. The Hinckley and Bosworth Local Plan supports employment development of a small scale within settlement boundaries and in rural areas immediately adjacent to settlement boundaries if it meets demonstrable local employment needs. Policy NE5 seeks to protect the countryside for its own sake and does not support large scale employment development unless it is important to the local economy and cannot be provided within or adjacent to an existing settlement. Finally, Policy REC12 supports the development of the site into a country park but does specifically state that proposals for other forms of development will be resisted. It is therefore considered that in principle the development of the site with large-scale employment land is not supported by policy.

The Emerging Leicestershire and Leicester Waste Development Framework

The Nailstone Colliery site is allocated as a preferred waste site in the emerging Waste Development Framework. The Framework is currently at preferred options stage, the consultation period ended in October 2006. There have been representations received regarding the Nailstone Colliery site, which have to now be considered. The Framework therefore has some weight but it is limited at this stage in the process. However, it should be noted that as the plan is strategic, any alterations to preferred options would have a wider strategic impact across the region.

Environmental Assessment

The Town and Country (Assessment of Environmental Effects) Regulations 1988 as amended by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 provides the mechanism for requiring an Environmental Assessment for development where it is considered there will a considerable impact upon the environment. Where a development is considered to be an Environmental Impact Assessment development it is necessary for an environmental assessment to be submitted with the application. If when assessed it is apparent that there are environmental issues that still require consideration these details should be sought prior to determination of the application. It is not acceptable to determine the application requiring the further information by condition. Any grant of planning permission that does not take this environmental information into consideration is invalid.

Ecology and Landscape

The development proposals result in the loss of areas of Ancient Woodland, pond habitat for Great Crested Newts, a Badger sett and lengths of hedgerow. Concerns have been raised regarding these losses by the National Forest, the Borough Council's Ecological Consultant, the Director of Community Services, and Natural England. National Policy specifically identifies Ancient Woodland and states that local authorities should not grant planning permission for any development that would result in the loss or deterioration unless the need for and benefits of the development in that location outweigh the loss of woodland habitats. An area of ancient woodland is proposed to be lost through the siting of the employment development. This the Applicant's submit is required to enable the development of the country park. However, it is considered that this is not sufficient to justify its loss; the site is extremely large and it is considered that the employment development could be redesigned to retain the ancient woodland.

The site also contains sites of parish level ecological significance; Policy Environment 3A(iii) of the Structure Plan protects these sites and states that development will only be acceptable where it would not adversely affect habitats of local importance. Part of the site of parish level ecological significance is proposed to be lost. Again these should be identified and incorporated into the design of the development with a buffer zone around each site to ensure that its importance is retained.

The ecological report submitted with the application recommended that further surveys be completed in the area of protected species. Leicestershire County Council's Director of Community Services (Natural Life) recommends these further surveys before planning permission is granted. Natural England considers that insufficient survey visits were undertaken for great crested newts to confirm their absence from any of the water bodies on site. They have therefore also recommended that further surveys are undertaken prior to the determination of the application as they may have implications of the design of the scheme. Natural England further considers that surveys for reptiles need to be undertaken before work on site commences and that replacement habitat for brown hares and Little Ringed Plover if the areas currently used are lost.

The National Forest raise concerns regarding the translocation of topsoil from the woodland areas to areas of new planting as this could have negative ecological impacts on the areas of existing woodland. They also require further details regarding the management strategy of the park. Comments were also made that the building heights should be carefully considered as landscaping can take a significant time to become effective. They use the example that on average it can take 100 years for an Oak Tree to reach 20 metres in height.

CPRE considers the country park element of the scheme has its merits but feels there would be opportunity to encompass more land within the site to enable the creation of a wildlife corridor and footpath/cycle trail to link existing woodlands.

It is considered that there are still outstanding concerns regarding the ecology of the site and that the scheme could, if there was no objection in principle, be redesigned to accommodate these areas of concern.

Highways

The Director of Highways, Transportation and Waste Management comments that although this is a brownfield site the location does not appear fully sustainable. However they have not recommended refusal of the application. Whilst concerns have been raised by a number of consultees and residents that this proposal will lead to unacceptable levels of traffic movement on the local road network, the applicants have submitted a traffic assessment and travel plan that the Highway Authority appears supportive of. Several Grampian conditions have been suggested to overcome deficiencies within the road network and to make the development acceptable. If approved it will be necessary to secure a section 106 agreement for highway improvement works both within Hinckley and Bosworth Borough and North West Leicestershire District. The concerns of residents that HGV traffic will adversely impact on the area has been considered and a routing strategy has been proposed so that only the designated lorry routes are used.

Archaeology

The core of the site has been significantly damaged by its use as a colliery, however it is considered that the periphery areas appear to have been minimally affected. Works such as tree planting and creation of lakes could impact upon buried archaeology and therefore further survey work is required prior to determination of the application.

Contamination

The Environment Agency whilst not objecting to the proposal have commented that further work be undertaken to characterise the contamination present on the site as the reports submitted does not take all aspects in to account.

Noise and Air Quality

Reports submitted with the application appear to be adequate, the Head of Health and Environment recommend conditions.

Drainage

Reports submitted suggest that sustainable drainage systems are to be used. The Land Drainage Engineer considers this essential and suggests the inclusion of rainwater harvesting.

Rights of Way

The addition to the existing network is welcomed by the majority of consultees and residents. It is considered that the proposals will considerably enhance the rights of way network in the area and increase access to the countryside in line with policy requirements.

Other Issues

Concern has been raised that the commercial operation will be open 24 hours, 7 days a week. If approved the operating hours can be conditioned to ensure there is no adverse

impact on neighbours. Likewise, delivery vehicles can be conditioned to only make deliveries during certain hours. As with the majority of commercial developments the concern of light pollution is raised, and this again can be conditioned to reduce the impact on the surrounding land uses.

The loss of agricultural land has been raised due to impact on the livelihood of local farmers. Furthermore the creation of the wetland area is likely to affect an existing working arable/beef farm. Policy does protect the loss of the best and most versatile land (Grade 1, 2 and 3a). The agricultural land in question in Grade 3, however at the time of writing the report it is unclear whether it falls within Grade 3a, an update will be reported on late items agenda.

Conclusion

In conclusion it is considered that the proposed development provides a valuable recreational facility to the local area. However, the scheme includes large-scale employment development in a location that is considered unsustainable by virtue of its remote location to sustainable settlements. Furthermore, the development is considered to have an adverse impact environmentally by affecting areas of ancient woodland and locally protected ecological sites. The lack of information to address adequately the environmental impacts does not meet the requirements of The Town and Country (Assessment of Environmental Effects) Regulations 1988 as amended by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. It is therefore considered that the proposed development, for the reasons above, conflicts with National, Regional, Strategic and Local Planning Policies.

RECOMMENDATION :- REFUSE, for the following reasons :-

- 1 In the opinion of the Local Planning Authority the proposed development is considered contrary to Policy REC12 of the adopted Hinckley and Bosworth Local Plan by virtue of the inclusion of employment development within the proposal. This does not meet the aims of the policy, which are to provide recreational activities, forest planting and landscaping including fishing and informal pursuits.
- 2 In the opinion of the Local Planning Authority the proposed development is considered contrary to the emerging Leicestershire and Leicester Waste Development Framework by virtue of Nailstone Colliery being allocated as a preferred option for a recycling facility; composting; waste recovery facility; and landfill for non-inert waste.
- 3 In the opinion of the Local Planning Authority the proposed development results in employment development in a location which is unsustainable by virtue of its remote location in the countryside and is therefore contrary to Planning Policy Statement 1, Planning Policy Statement 7, Planning Policy Guidance Note 4 and Planning Policy Guidance Note 13, Regional Spatial Strategy 8, Policies 2, 3 and 22; the Leicestershire, Leicester and Rutland Structure Plan, Strategy Policy 2A and 2B; and Hinckley and Bosworth Local Plan, Strategy Objective 5.
- 4 In the opinion of the Local Planning Authority the loss of the ancient woodland would result in a detrimental affect on a valuable biodiversity resource which has historical importance, and if lost cannot be recreated. This therefore conflicts with Planning Policy Statement 9, the Leicestershire, Leicester and Rutland Structure Plan, Environment Policy 3A and 5; and Hinckley and Bosworth Local Plan, Policy NE7.
- 5 In the opinion of the Local Planning Authority, the proposed development is likely to have a significant adverse affect on the wildlife habitat in Nailstone Wiggs, which is a Parish Level Ecologically Significant site. This is therefore contrary to the Leicestershire, Leicester and Rutland Structure Plan Policy 3A and Hinckley and Bosworth Local Plan, Policy NE7.

Item: 03

Reference: 10/00883/FUL

Applicant: Mr Haydn Evans

Location: A O Henton Engineering Co Ltd Cotes Road Burbage

Proposal: DEMOLITION OF EXISTING BUILDING AND ERECTION OF 14 DWELLINGS WITH ASSOCIATED PARKING AND LANDSCAPING

Target Date: 14 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

This application seeks full planning permission for the demolition of a vacant engineering works and the erection of 14 dwellings with associated car parking and landscaping. The application proposes a two-storey residential development comprising of a mix of six 4 bed detached dwellings, five semi detached 3 bed dwellings and one semi-detached 2 bed dwelling. Eight of the dwellings front onto a private drive to be constructed as part of the development and the remaining six dwellings front onto Cotes Road. All dwellings are provided with open fronted gardens to the fore, individual private driveways and enclosed private rear gardens. The application includes proposals to resurface the full length of Cotes Road up to the Sketchley Road junction and amended plans have been received to provide a pedestrian footway across the frontage of the site on Cotes Road as part of highway improvement works.

The Site and Surrounding Area

The application site measures approximately 0.45 hectares and is located within a predominantly residential area of Burbage on the west side of a largely unmade track known as Cotes Road which links Coventry Road to the south with Sketchley Road to the north. The site slopes gently from east to west and from north to south. The majority of the site is occupied by a number of redundant industrial buildings, formerly occupied by an engineering company, with external hard surfaced servicing and parking areas around its periphery. The boundaries to the site are a mix of a brick wall, close boarded panel fencing, post and wire fencing, hedgerows and individual trees.

Technical Documents Submitted with the Application

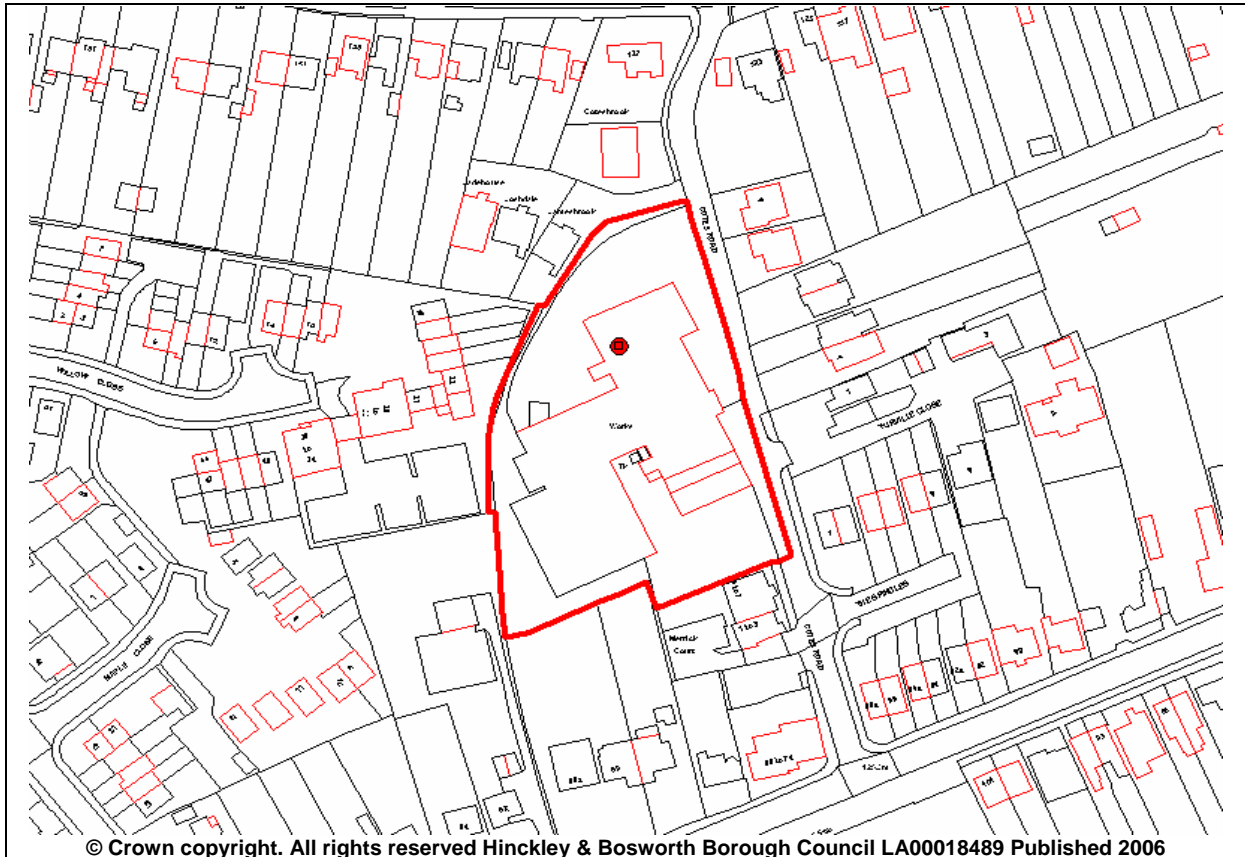
A Design and Access Statement has been submitted to support the application. This advises that the proposal will tidy a vacant and unattractive site providing much needed new homes and that the sympathetic nature of the development will ensure that the amenities of neighbouring properties are not adversely affected whilst improving the street scene. It also suggests that the development provides high quality designs with a variety of house types, proportions and architectural details in keeping with the characteristics of the area.

A Topographic Survey of the site has been submitted

The Development Appraisal Report suggests that the scheme has marginal viability and will be unable to sustain the level of contributions requested. The supporting legal opinion examines each of the contributions requested and the justification provided in relation to the CIL Regulations and given the viability issues of the scheme suggests a way forward in respect of the reduced level of contributions available for infrastructure improvements.

History:-

No relevant planning history.



Consultations:-

No objection has been received from:-

Directorate of Chief Executive (Archaeology)
Environment Agency.

No objection subject to conditions has been received from:-

Director of Environment and Transport (Highways)
Severn Trent Water Limited
Head of Business Development and Street Scene Services
Head of Community Services (Pollution)
Head of Community Services (Land Drainage).

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

- a) Directorate of Chief Executive (Ecology) does not require any contributions but recommends that a watching brief be maintained for all protected species during demolition of the existing buildings.
- b) Director of Children and Young Peoples Services (Education) states that there is currently a surplus capacity in the local high school but that a total contribution of £85,106.36 is sought towards education facilities in order to mitigate the impact of the development on the capacity of the local primary school (£48,396.04) and upper school (£36,710.32) respectively.
- c) Director of Environment and Transport (Civic Amenity) seeks a total contribution of £633 (£45.19 per dwelling) towards civic amenity facilities in order to mitigate the impact of the development on the Barwell Civic Amenity Site.
- d) Director of Adults and Communities (Libraries) seeks a total contribution of £880 (13 x £63.41 for 3/4 bed dwellings and 1 x £54.35 for the 2 bed dwelling) towards library facilities in order to mitigate the impact of the development on Burbage library.
- e) Director of Environment and Transport (Highways) seeks the provision of a travel pack for each dwelling (£48.85 per pack through LCC) and the provision of 2 x 6 month bus passes for each dwelling (£264.50 per pass through LCC) in order to promote sustainable travel.

The Primary Care Trust seek a total contribution of £15,754 (13 x £1167 for 3/4 bed dwellings and 1 x £583 for the 2 bed dwelling) towards healthcare facilities in order to mitigate the impact of the development on Burbage General Practice Surgery.

Leicestershire Constabulary Crime Reduction Officer offers crime reduction advice and seeks a total contribution of £8484 (£606 per dwelling) towards police facilities to mitigate the impact of the development on local policing requirements.

Burbage Parish Council objects to the application on the following grounds:-

- a) Would result in overdevelopment of the site due to factors including scale and mass
- b) contrary to Burbage Village Design Statement
- c) width of access road and amount of additional traffic
- d) restricted visibility in all directions
- e) no pavement provided
- f) if approved contributions should be sought for highway improvements and public play and open space facilities.

Burbage Matters has no objection in principle but objects to the road layout suggesting there should be provision for a footpath along the whole development in Cotes Road, the private road should be an adopted road with footpaths to increase its width and reduce parking problems, accidents to pedestrians, have effective street lights, allow access for emergency vehicles and dustbin lorries and increase security to the site.

Site notice and Press notice were displayed and neighbours notified. Nine letters have been received raising the following issues and concerns:-

- a) Supporting the principle of residential development, will improve the area
- b) due to increase in traffic Cotes Road should be resurfaced all the way to Sketchley Road
- c) due to increase in traffic a pavement should be incorporated into Cotes Road for pedestrian safety
- d) existing Traffic Restriction order should be maintained and parking restrictions should be introduced along Cotes Road
- e) access should be from Coventry Road only, particularly construction traffic
- f) parking and turning of heavy vehicles in adjacent private roads should be prohibited
- g) drainage/flood risk issues
- h) trees in adjacent gardens missing in topographic survey
- i) perimeter trees require works to reduce their size and remove overhanging branches to increase natural light to neighbouring properties
- j) existing trees on site should be retained to preserve neighbours privacy, visual amenity and natural habitat
- k) land ownership issues

At the time of writing the report comments have not been received from Cyclists Touring Club.

The consultation period remains open at the time of writing and closes on 26th January 2011. 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):' Delivering Sustainable Development' refers to the delivery of sustainable development through the planning system. It promotes the more efficient use of land 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 Guidance 13 (PPG13): 'Transport' promotes more sustainable transport choices.

Planning Policy Statement 25 (PPS25): 'Development and Flood Risk' aims to ensure that flood risk is taken into account at all stages of the planning process and to reduce flood risk to and from new development through location, layout and design incorporating sustainable drainage systems (SUDS).

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

Government Circular 05/2005: Sets out the Secretary of State's policy on Planning Obligations, and should be given significant weight in decision making and developer contributions. The Circular advises, inter alia, that in some cases, it may not be feasible for 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 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.

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 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 in urban or other sustainable locations, contributing to the regional target of 60% of additional dwellings on previously developed land. Policy 43 seeks to improve safety across the region and reduce congestion.

Local Policy

Local Development Framework: Core Strategy (2009)

Policy 4: 'Development in Burbage' seeks to allocate land for the development of a minimum of 295 new residential dwellings to support the Burbage local centre and requires new development to respect the character and appearance of Burbage Conservation Area by incorporating locally distinctive features.

Policy 16: 'Housing Density, Mix and Design' requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings and to meet a minimum density of 40 dwellings per hectare on sites within the urban area. Where site characteristics dictate and are justified, a lower density may be acceptable.

Policy 19: 'Green Space and Play Provision' sets the standards for green space and play provision.

Policy 24: 'Sustainable Design and Technology' requires residential developments in urban areas to meet a minimum of Code Level 3 of the Code for Sustainable Homes unless it would make the development unviable.

Hinckley and Bosworth Local Plan (2001)

The site is within the settlement boundary of Burbage and is identified as an EMP1(c) employment site in the adopted Hinckley and Bosworth Local Plan where alternative uses are encouraged subject to appropriate design policies.

Policy BE1: 'Design and Siting of Development' seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. The policy states that planning permission for development proposals will be granted where they: complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features; incorporate design features that reduce energy consumption; ensure adequate highway visibility and parking standards; do not adversely affect the amenities of neighbouring properties and incorporate landscaping to a high standard.

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

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

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 NE14: 'Protection of Surface Waters and Groundwater Quality' requires satisfactory arrangements to be made for the disposal of foul sewage and surface water.

Policy T5: 'Highway Design and Vehicle Parking Standards' refers to appropriate standards for new developments unless a different level of provision can be justified.

Policy IMP1: 'Contributions Towards the Provision of Infrastructure and Facilities' requires appropriate contributions to mitigate the impacts of the development commensurate with the scale and nature of the development proposed.

Policy REC3: 'New Residential Development - Outdoor Play Space for Children' 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 Material Planning Policy Documents and Guidance

The Council's Adopted Protocol on Renegotiating Financial Contributions Required for Infrastructure Improvements, which encourages the negotiation of the payment of contributions in accordance with a strict protocol and allows for the payment of reduced contributions in exceptional circumstances and only where significant planning gains are available on the redevelopment of brownfield sites, which are seen as a priority for immediate delivery by the Council.

The Employment Land and Premises Study 2010 describes the site as an isolated factory premises with outdated buildings (size and configuration) with limited commercial demand and poor access through residential areas.

Burbage Village Design Statement 2006 sets out the principles, design features and quality standards for development in Burbage at the local level. The statement identifies five zones to describe the setting, composition and character of the village, the application site lies within Zone 2. Cotes Road is described as comprising of a mix of housing with modern individual design with open plan front gardens.

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 guidance on all highway related matters.

Appraisal:-

The main considerations with regards to this application are: the principle of development; the design and layout; the impact of the development on the character of the area, the amenities of neighbouring properties and highway safety; developer contributions; and other issues.

Principle of Development

The site is within the settlement boundary of Burbage where policy RES5 of the adopted Local Plan supports new residential development in principle, policy 4 of the Core Strategy supports the provision of additional dwellings in Burbage. In addition, policy EMP1(c) of the adopted Local Plan and the Employment Land and Premises Study both support alternative use of the application site. As a result, the proposed development is considered to be acceptable in principle.

Layout and Design

The proposed layout results in dwellings fronting onto both Cotes Road and the proposed private road within the development with all dwellings set back from the respective roads and provided with open fronted gardens with individual driveways for off-street parking to reflect the character of existing properties in Cotes Road and the surrounding area. A turning head is proposed at the end of the private road to allow vehicles to manoeuvre and exit the site in a forward direction. Details of existing ground levels have been submitted on the Topographic Site Survey plan and the proposed finished floor levels submitted on the Drainage Layout plan relate well to the levels of adjoining development and are considered to be acceptable.

The proposed dwellings are two-storeys in scale in keeping with neighbouring development in Cotes Road and have a contemporary design with pitched roofs with gable ends. The use of subordinate projecting gables, hanging bay windows, canopy porches and brick headers are design features that add interest to the elevations. Plots 3 and 11 (House Type G) are designed with dual aspect frontage to enhance the street scene on both Cotes Road and the proposed private road. Following comments received from the Police Architectural Liaison Officer, amended plans have been submitted that add side elevation windows to house types C and E to improve natural surveillance of parking areas on private driveways. Whilst the new dwellings do not reflect the more traditional designs of the Burbage Conservation Area suggested in the Burbage Village Design Statement, this is a significant distance from the application site and the designs reflect the more contemporary designs in the vicinity and are therefore considered to be acceptable in this case.

The proposed landscaping scheme includes the provision of quick growing ornamental trees and low level shrubs to enhance the street scene. The existing brick wall to the north boundary is to be retained and new close boarded 1.8 metres high timber fencing is to be provided to the west and south boundaries of the site and to separate private rear garden areas to each plot to provide privacy to existing neighbouring properties and future occupiers of the development.

Impact upon the Character of the Area

The site is currently vacant and the existing commercial buildings are poor in terms of visual appearance. The commercial use of the site is out of character with the surrounding residential uses. It is considered that the redevelopment of the site with a high quality residential scheme together with proposed improvements to Cotes Road will enhance the character and visual appearance of the site and the street scene.

There are a number of individual trees around the perimeter of the site that are to be retained in the interests of visual amenity.

Impact on Amenities of Neighbouring Properties

The layout of the site has been designed to respect the privacy and amenities of the occupiers of neighbouring dwellings with adequate separation distances between proposed and existing dwellings and windows on the proposed dwellings being sited to avoid the creation of overlooking or loss of privacy. Whilst the separation distance of between 9.5 and 11 metres between the side elevation of Plot 7 and the existing apartments on Willow Close to the west is less than the 14 metres suggested in the Council's Supplementary Guidance on New Residential Development, the windows on the Willow Close properties facing Plot 7 are obscurely glazed and, as a result, it is considered that there will be no significant loss of amenity as a result of this reduced distance. All of the other proposed dwellings are well

related to existing dwellings and to each other and do not result in any overbearing or adverse impact on neighbours amenities.

Highway Issues

Cotes Road comprises of an unmade track, substandard in width for a significant section of its length. Following consultation responses received from statutory consultees, local interested parties and neighbouring occupiers, the applicant has submitted amended plans that include the re-surfacing of Cotes Road from the adopted Highway section off Coventry Road for its entire length to the junction with Sketchley Road and the provision of a new pedestrian footway across the entire site frontage with Cotes Road in order to mitigate the impact of additional traffic movements along Cotes Road as a result of the proposed development and in the interests of the safety of road users and pedestrians. The local planning authority cannot insist that all roads serving new residential development are constructed to adoptable standards and the proposed private road is to be retained within the scheme.

All plots are provided with adequate off-street car parking for a minimum of two vehicles either within integral or detached garages and on private driveways provided either to the fore or side of the dwellings that they serve.

The Director of Environment and Transport (Highways) does not object to the application subject to a number of conditions, including a Grampian condition to secure the off-site highway works, and advises that the developer will need to enter in to a separate legal agreement with the Highway Authority for those works prior to commencement. As a result of the layout of the development, which includes pedestrian footways and open fronted gardens, the applicant has demonstrated that visibility splays of 2.4 metres x 43 metres can be achieved in both directions from the private road therefore the recommended condition is considered to be unnecessary in this case.

Planning Obligations and Viability

A total of £136,458.46 has been requested by various authorities towards infrastructure improvements relating to the proposed development.

The contributions requested include:

a) Education £85,106.36

Primary School £48,396.04

Upper School £36,710.32

b) Civic Amenity £633

c) Libraries £880

d) Highways (Public Transport) £8,089.90

Travel Packs £683.90

Bus Passes £7406

e) Play and Open Space £17,511.20 calculated as follows:

Capital Provision: £11,449.20

- Children's Equipped Play Space £10,155.60
- Informal Children's Play Space £1,293.60

Maintenance Contribution: £6,062.00

- Children's Equipped Play Space £4,949.00
- Informal Children's Play Space £1,113.00

- f) Healthcare £15,754
- g) Police £8,484

Following receipt of these requests, the applicant has submitted a Development Appraisal Report and supporting letters which provide an assessment of the financial position in respect of the development together with a legal opinion on the requested contributions in relation to viability and the CIL Regulations. The purpose of these documents is:-

- a) to establish the marginal viability of the scheme
- b) to demonstrate that the planning obligations requested, and at the rates requested, fail to satisfy the requirements of the CIL Regulations and government guidance contained within Circular 05/2005
- c) to seek agreement on an appropriate way forward in allocating the suggested available contribution of £56,000 (£4000 per dwelling) for infrastructure improvements from the development, comprising of a revised education contribution of £50,826.33 to be paid in ten phased instalment payments and the remainder of £5,173.67 being contributed towards play and open space facilities given the lack of justification for the other contributions.

The Borough Council's Legal Section has reviewed the requests for contributions and the justification for those requests provided by each service area and considers that the requested contributions for libraries, civic amenity, highways (public transport), health care and police facilities fail to comply with the requirements of the CIL Regulations and Circular 05/2005 and as a result should not be pursued in this case. The education contribution is considered to be compliant subject to the justification of the calculations by the Director of Children and Young Peoples Services (Education), following the challenge to the level of contribution requested raised by the legal opinion on behalf of the applicant.

Policy 19 of the adopted Core Strategy, policy REC3 of the adopted Local Plan, the Council's Play and Open Space Supplementary Planning Document and the Green Space Strategy and Audits of Provision require developments involving additional residential units to provide contributions, in lieu of any on-site provision, towards the provision and maintenance of off-site children's play space in the vicinity of the development in order to mitigate the impact of such development on these facilities. In this case, the requirement will be for a total contribution of £17,511.20 (£1250.80 x 14 dwellings). This contribution could be used to address deficiencies in children's play facilities at the Britannia Recreation Ground, Burbage (located approximately 215 metres to the east) which was evaluated with a quality score of only 37.5% in the Audit of Provision 2007 with recommended improvements at an estimated cost of £350,000 in the Green Space Quantity/Accessibility Audit 2005.

The developers offered contribution of £56,000 represents a 41.04% contribution against the total contribution requests and 54.57% of the contribution requirement for education and play and open space facilities only. The viability information submitted has been forwarded to the Homes and Communities Agency (HCA) for an independent view on the contents of the Development Appraisal Report and its reasonableness in relation to the suggested level of contributions available. At the time of writing this report a response has not yet been received and will be reported as a late item to the agenda.

Should the HCA confirm that the scheme is not economically viable, in accordance with the S.106 Protocol, it will be appropriate to consider reduced contributions in respect of this proposal. At the time of writing and in the absence of the HCA's advice the application is presented for approval on the basis of the full contributions for education and play and open space, however, Members should be aware that this matter will be considered in greater detail in the late item.

At the time of writing this report no response has been received from Leicestershire County Council in respect of the proposed reduced contributions. Any response received will be reported as a late item to the agenda.

Other Issues

In view of the former uses of the site for industrial processes, the Head of Community Services (Pollution) recommends conditions requiring the investigation of any potential land contamination and any necessary remediation to be carried out within the site should planning permission be approved in order to protect the amenities of future occupiers of the site.

The Head of Community Services (Land Drainage) advises that the existing 'combined' sewage network in the locality is likely to have limited capacity, and the opportunity should therefore be taken to relieve this system of unnecessary surface water by the incorporation of sustainable drainage systems as and when 'brownfield' development occurs within its drainage area. Notwithstanding the submitted drainage details which indicate all surface and foul sewer drainage from the site being disposed of to the existing mains sewer, it is considered that a condition requiring further investigation and details of the proposed disposal of surface water drainage is reasonable in this case should planning permission be approved in order to reduce the risk of flooding in the locality.

Directorate of Chief Executive (Ecology) does not object but requires the developer to maintain a watching brief for protected species during demolition and construction phases.

Policy 24 of the adopted Core Strategy requires residential developments in the urban areas (including Burbage) to meet a minimum of Code Level 3 of the Code for Sustainable Homes, unless it would make the development unviable. No details of any sustainable design measures have been submitted, therefore, in order to meet the requirements of policy 24, a condition (13) requiring details of such measures would normally be recommended should planning permission be approved. However, in this case, the imposition of the condition is subject to the outcome of the assessment of the submitted development appraisal and this matter will therefore be addressed further as a late item to the agenda.

The Head of Business Development and Street Scene Services (Waste Minimisation) advises that collection of recycling and refuse materials is from the boundary of the adopted highway and as the development includes unadopted roads. An amended plan has been submitted indicating a hard surfaced collection point adjacent to plot 11.

Conclusion

The site is within the settlement boundary of Burbage and residential development of this employment site is acceptable in principle in policy terms. The layout, scale and design of the development is considered to result in a high quality scheme that will enhance the character and appearance of the area and will not result in any adverse impact on the privacy or amenity of the occupiers of neighbouring properties. The proposed improvements to Cotes Road, the provision of a new footway and additional landscaping will improve the safety of

road users and pedestrians and enhance the street scene. The application is therefore recommended for approval subject to conditions and the completion of a suitable legal agreement to secure developer contributions to mitigate the impact of the development on education facilities and public play and open space facilities.

RECOMMENDATION:- That subject to the execution of a suitable agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 in respect of infrastructure contributions for education facilities and public play and open space facilities, the Deputy Chief Executive (Community Direction) be granted powers to issue planning permission subject to the conditions below. Failure to complete the agreement by 14 February 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 as the site is within the settlement boundary, as a result of its design and layout the development will enhance the character and appearance of the area and will not have an adverse impact on the amenities of neighbouring properties or highway safety and it will contribute to local infrastructure facilities.

Local Development Framework: Core Strategy (2009):- Policies 4, 16, 19 & 24

Hinckley & Bosworth Borough Council Local Plan (2001):- Policies BE1, RES5, NE2, NE12, NE14, T5, IMP1 and REC3

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drawing Nos. 1468/PL01 Rev C, 1468/PL02 Rev B and 1468/PL04 Rev B received by the local planning authority on 10 January 2011; 1468/PL03 Rev C received by the local planning authority on 12 January 2011 and 1468/PL05 received by the local planning authority on 15th November 2010.
- 3 The development hereby approved shall be implemented in accordance with the proposed ground levels and finished floor levels submitted on the DCB Partnership Ltd Drawing reference 10/1316 01 Rev B unless otherwise approved in writing by the local planning authority.
- 4 Notwithstanding the submitted details, before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages shall be deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.
- 5 Notwithstanding the recommendations of the submitted, 'Report on a Ground Investigation and Preliminary Risk Assessment For a Proposed Residential Development, Cotes Road, Burbage, Leicestershire' (reference: GEOREP/10-296R(A)), development approved by this permission shall not be commenced until a scheme for the investigation of 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.

- 6 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.
- 7 Notwithstanding the submitted details, no development shall not commence on site until full details of the method of disposal of surface water drainage from the site have been submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.
- 8 The development hereby approved shall be implemented in accordance with the boundary fence details submitted on Drawing No. 1468/PL04 Rev B and the boundary fences shall be erected prior to the first occupation of the dwelling to which they relate.
- 9 The hard and soft landscaping scheme shall be carried out in accordance with the approved details submitted on Drawing No. 1468/PL04 Rev B. The hard landscaping scheme shall be implemented prior to first occupation of the dwelling(s) to which it relates. The soft landscaping scheme shall be implemented during the first appropriate planting season following first occupation of the site and 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 The car parking facilities shown within the curtilage of each dwelling shall be provided before the dwelling is first occupied and shall thereafter permanently remain available for such use.
- 11 Prior to first occupation of any dwelling hereby approved, the off-site highway works as detailed on Highways Plan Drawing No. 1468/PL03 Rev C shall be completed to the satisfaction of the local planning authority.
- 12 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.
- 13 Prior to the commencement of development, a Code for Sustainable Homes Design Stage Assessment demonstrating that the dwellings hereby approved can be constructed to a minimum of Code Level 3 shall be provided to the local planning authority. In addition, within two months of the first occupation of each of the dwellings hereby approved, a final certificate demonstrating that the dwelling has been constructed to a minimum of Code Level 3 shall be provided to the local planning authority.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure a satisfactory relationship to neighbouring properties in the interests of visual amenity to comply with policy BE1 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.
- 5&6 To ensure safe development of the site and to protect the amenities of future occupiers of the site to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 7 To ensure satisfactory drainage of the site to accord with policy NE14 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 25 'Development and Flood Risk'.
- 8 To ensure that the development is not detrimental to the privacy or amenities of the occupiers of neighbouring properties and to protect the privacy and amenities of future occupiers of the development to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 9 To ensure 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 policies BE1 and NE12 of the adopted Hinckley & Bosworth Local Plan.
- 10 To ensure adequate off-street parking provision is available to serve the development to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 11 In the interests of highway safety to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 12 To protect the amenities of neighbouring properties during the construction process and in the interests of highway safety to accord with policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 13 In the interests of sustainable development to accord with policy 24 of the adopted Local Development Framework Core Strategy.

Notes to Applicant:-

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

- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 In relation to condition 7, the surface water drainage details should incorporate an assessment of the hydrological and hydro-geological context of the development and sustainable drainage principles unless satisfactory evidence can be provided to justify an alternative method of surface water disposal.
- 6 In relation to condition 11, the applicant will be required to enter into a suitable legal Agreement with the Highway Authority for the off-site Highway works before development commences.
- 7 If the applicants do not wish to seek adoption of the roads, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences. Please note that the Highway Authority has standards for private roads which will need to be complied with to ensure that the APC may be exempted and the monies returned. Failure to comply with these standards will mean that monies cannot be refunded. For further details see www.leics.gov.uk/htd or phone 0116 3057198.
- 8 Access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet.
- 9 In relation to conditions 5 and 6, 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.
- 10 Bats, nesting birds, great crested newts and certain other species are protected by law. A watching brief (maintained by the applicant and all workers on site) for all protected species should be maintained throughout the development. If any such species are discovered before or during the works, the works must be suspended and the local office of Natural England contacted for advice.

Contact Officer:- Richard Wright Ext 5894

Item: 04

Reference: 10/00901/EXT

Applicant: Groby Lodge Estate Partnership

Location: Groby Lodge Farm Markfield Road Groby

Proposal: EXTENSION OF TIME FOR THE IMPLEMENTATION OF EXISTING PLANNING PERMISSION REF. 07/01477/COU

Target Date: 15 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

This application seeks a new full planning permission to extend the time period for implementation of an extant planning permission (reference 07/01477/COU) for the change of use of a complex of redundant agricultural buildings located within the Groby Lodge Estate for B1 (Office/Light Industry) and B8 (Warehousing/Storage) employment use. The proposals include the provision of a number of separate yet potentially interconnected units of varying sizes providing a total of approximately 2,700 square metres of flexible floor space including 1400 square metres of office space, 1000 square metres of light industrial floor space and 300 square metres of warehousing/storage. The proposals include some small extensions to the smaller bull/cattle pen buildings within the courtyard area in order to create practical accommodation. Car parking courts are located adjacent to the various units within existing storage yard areas providing a total of 75 spaces. Cycle storage is also provided within the site.

The Site and Surrounding Area

Groby Lodge Estate covers approximately 300 acres of agricultural land now generally used as grass land and forestry and is located to the north west of Groby in the countryside between Ratby Lane, Markfield and Markfield Road (A50), Groby. The main vehicular access to the application site, a recently upgraded farm road, is off Ratby Lane and runs separately but more or less parallel with a public right of way/bridleway (R36) which continues beyond the farm complex as a single track road onto the A50. The accesses also serve a number of isolated dwellings located within Groby Lodge Estate. The farm complex itself comprises a range of single storey and two storey traditional brick and stone buildings generally with pitched slate roofs arranged around a central yard, together with larger brick buildings having steel framed roofs with corrugated cement fibre sheeting, and a number of Dutch barns of steel framed construction and corrugated steel sheet cladding. A considerable amount of National Forest planting has taken place within the Estate and the applicant has also carried out additional landscaping in the form of earth bunding and planting around the upgraded access and periphery of the building complex.

Technical Documents Submitted with the Application

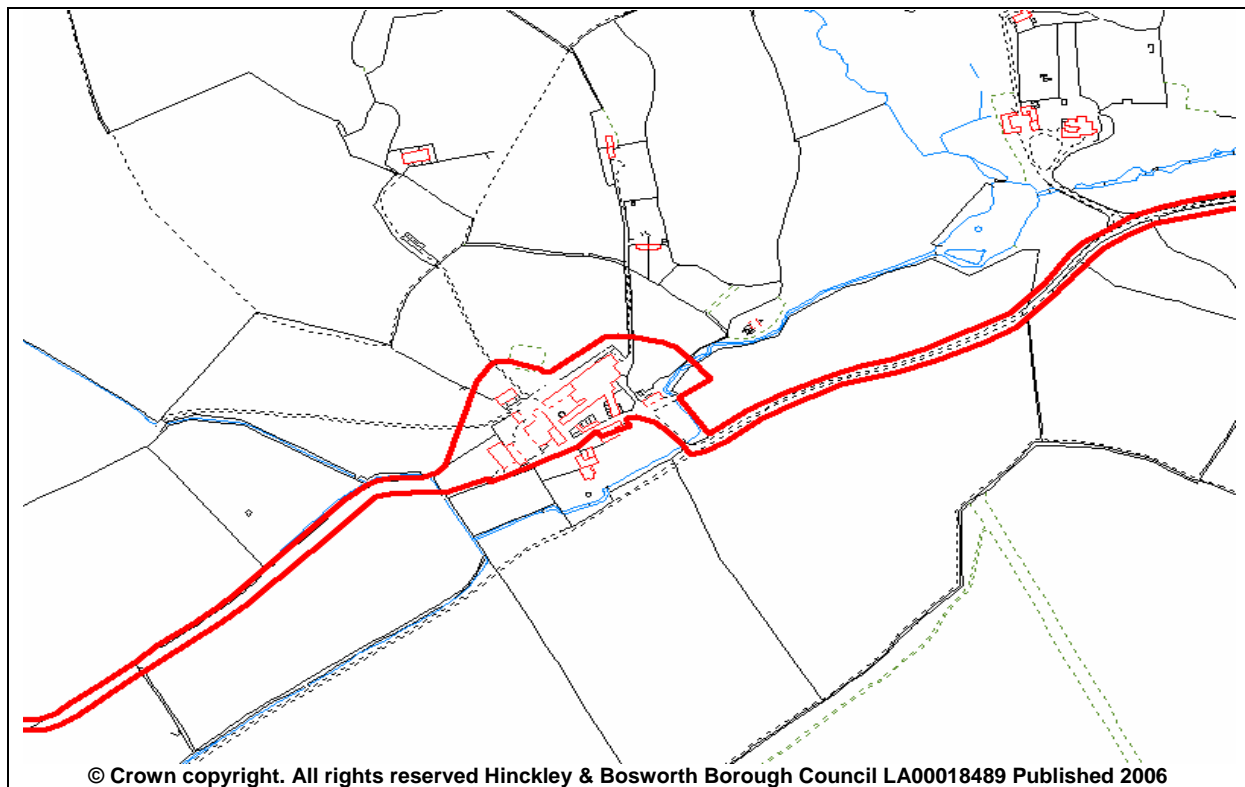
The previous application was accompanied by an a Design and Access Statement, Structural Survey, Protected Species Survey (and Addendum), Archaeological Assessment, Preliminary Contamination Risk Assessment, Transport Statement (and Addendum). The current application has been submitted with a supporting letter from the agent that refers to the current economic climate and government guidance that encourages local planning authorities to take a positive and constructive approach towards applications that improve the prospects of sustainable development being brought forward quickly. The letter also suggests that there have been no material changes in relevant planning policy or other material considerations since the previous planning permission was issued.

In addition, an updated Addendum report on the Structural Condition of the Outbuildings to assess any further deterioration of the buildings following removal of some of the roof coverings and exposure of the roof timbers. This report concludes that despite the removal of slates from the roofs of some of the buildings, all of the structures remain sound and they can be converted without the need for substantial rebuilding works.

A Protected Species Survey carried out in August 2006 confirmed the presence of a large maternity roost for bats within the two storey barn (Building J) and that bat activity had increased since the previous survey carried out in 2004. However, a more recent survey carried out on 21st February 2008 appeared to suggest that the roost may have been abandoned during 2007.

History:-

07/01477/COU	Conversion of Farm Buildings to B1 and B8 Use	Approved	12.03.08
04/00431/COU	Conversion of Existing Farm Buildings to Mixed (B1, B2, B8) Use	Withdrawn	13.02.06
01/00710/COU	Change of Use and Conversion of Buildings to Office Accommodation	Withdrawn	04.11.02



Consultations:-

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

No objection subject to conditions have been received from:-

Director of Environment and Transport (Highways)
Director of Environment and Transport (Rights of Way)
Directorate of Chief Executive (Archaeology)
Environment Agency
Head of Community Services (Pollution).

Directorate of Chief Executive (Ecology) does not object but recommends that due to the presence of a significant bat roost, additional emergence surveying should be undertaken along with mitigation being designed into the plans of the barn conversions, both of which should be agreed and completed prior to commencement of any works.

Natural England objects to the application on the grounds that insufficient and up to date information has been submitted regarding the potential impacts of the development on protected species, including but not limited to bats, that may use the site.

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

Leicestershire Constabulary Crime Reduction Officer
Severn Trent Water Limited
Ramblers Association
National Forest Company
Forestry Commission
Friends of Charnwood Forest
The Woodland Trust

Groby Parish Council
Ratby Parish Council
Markfield Parish Council
Press notice
Site notice
Neighbours.

Policy:-

Central Government Guidance

Planning Policy Statement 1: 'Delivering Sustainable Development' sets out the overarching principles for sustainable development. Development proposals should be in sustainable locations and should seek to enhance the environment.

Planning Policy Statement 4: 'Planning for Sustainable Economic Growth' in policy EC2.1 seeks to make the most efficient and effective use of land, prioritising previously developed land which is suitable for re-use and at the local level encourages new uses for vacant or derelict buildings, including historic buildings. Policy EC6.1 states that local planning authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, but supports the conversion and re-use of appropriately located and suitably constructed existing buildings in the countryside (particularly those adjacent or closely related to towns or villages) for economic development and farm diversification for business purposes that are consistent in their scale and environmental impact with their rural location. EC6.2 states 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 EC12 states that in determining planning applications for economic development in rural areas local planning authorities should support development which enhances the vitality and viability of market towns and other rural service centres and approve planning applications for the conversion and re-use of existing buildings in the countryside for economic development, particularly those adjacent or closely related to towns or villages, where the benefits outweigh the harm in terms of the potential impact on the countryside, landscapes and wildlife, the desirability of conserving heritage assets, the level of accessibility to service centres and the suitability of the buildings, and of different scales, for re-use.

Planning Policy Statement 5: 'Planning for the Historic Environment' sets out the governments' planning policies on the conservation of the historic environment. Policy HE12 advises that where the loss of the whole or a material part of a heritage asset's significance is justified, local planning authorities should require the developer to record and advance understanding of the significance of the heritage asset before it is lost, using planning conditions or obligations as appropriate. The extent of the requirement should be proportionate to the nature and level of the asset's significance.

Planning Policy Statement 7: 'Sustainable Development in Rural Areas' promotes sustainable development in rural areas and encourages the re-use of appropriately located and suitably constructed existing buildings within the countryside, particularly in relation to economic development, where this meets sustainable development objectives. In assessing such development consideration should be given to the potential impact on the countryside, landscape and wildlife; accessibility to settlements; the suitability of different types of building and of different scales for re-use; the need or desire to preserve buildings that contribute to local character.

Planning Policy Statement 9: 'Biodiversity and Geological Conservation' sets out planning policies for the protection of biodiversity and geological conservation through the planning system. It promotes sustainable development, seeks to conserve, enhance and restore the diversity of England's wildlife and geology; and seeks to contribute to rural renewal.

Planning Policy Guidance Note 13: 'Transport' seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices.

Planning Policy Statement 25 (PPS25): 'Development and Flood Risk' aims to ensure that flood risk is taken into account at all stages of the planning process and to reduce flood risk to and from new development through location, layout and design incorporating sustainable drainage systems (SUDS).

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.

Government Circular 06/2005 sets out statutory obligations in respect of biodiversity conservation. Paragraph 98 advises that where a development proposal is likely to result in harm to the species or its habitat local planning authorities should attach appropriate planning conditions or enter into planning obligations under which the developer would take steps to secure the long-term protection of the species. They should also advise developers that they must comply with any statutory species' protection provisions. Paragraph 99 advises that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted. In appropriate circumstances the permission may also impose a condition preventing the development from proceeding without the prior acquisition of an appropriate licence under the procedure set out in section C of the circular.

Regional Planning Policy

The East Midlands Regional Plan (adopted March 2009) provides the development strategy for the East Midlands up to 2026. 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 and the SoS continues to maintain that his earlier correspondence constitutes a material consideration.

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 including highway design that improves safety. Policy 3 directs development towards urban areas with priority being given to making the best use of previously developed land in urban or other sustainable locations. Policy 43 seeks to improve safety across the region and reduce congestion.

Local Planning Policy

Local Development Framework: Core Strategy (2009)

Spatial Objective 1: Strong and Diverse Economy seeks to strengthen and diversify the economy by providing sufficient, sustainably located good quality land and premises, with the focus for new employment being in the urban areas.

Spatial Objective 3: Strong and Vibrant Communities seeks to ensure rural communities have access to employment opportunities.

Spatial Objective 13: Transportation and Need to Travel seeks to encourage a range of transport options through improvements to public transport infrastructure and the use of travel plans.

Policy 14: Rural Areas: Transport supports accessibility within rural areas and delivery of a viable, high quality public transport network.

Policy 21: National Forest requires new development within the National Forest to provide suitable on-site landscaping involving woodland planting and the creation and management of other appropriate habitats, open space provision and new recreational facilities.

Hinckley and Bosworth Local Plan 2001

The site is located within an area of particularly attractive countryside and within the boundaries of the National Forest and Charnwood Forest as defined in the adopted Hinckley and Bosworth Local Plan.

Policy EMP4 provides criteria to be applied to proposals for employment development on sites other than those allocated for employment uses.

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

Policies BE16 requires satisfactory archaeological investigation and recording to be carried out where necessary.

Policy BE26 seeks to protect the environment and visual amenity through the reduction of light pollution.

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 for the change of use, re-use or 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; will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping.

Policy NE7 affords protection to sites of county and local nature conservation significance.

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

Policy NE13 states that planning permission will not be granted for proposals which would damage the drainage functions of the natural watercourse system unless on or off site protection, alleviation or mitigation works are undertaken.

Policy NE14 states that planning permission will not be granted for development proposals which will adversely affect the water quality and ecology of watercourses and groundwater resources.

Policy NE19 relates to the Charnwood Forest within which, planning permission will not be granted for development proposals that would diminish the unique character and amenity of the Forest.

Policy T5 requires new development to meet the current highway standards in terms of highway design and parking.

Policy T11 states that proposals likely to generate significant traffic flows should not have a detrimental effect on the local traffic situation.

Other Material Policy Documents and Guidance

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.

The Council's Supplementary Planning Guidance on the Conversion of Rural Buildings states that the re-use and adaptation of existing rural buildings has an important role to play in meeting the needs of rural areas for commercial and industrial purposes: reducing the need for new buildings; avoiding vacant buildings becoming prone to vandalism and dereliction; and providing employment. The guidance gives further detailed advice regarding external and internal building design features, the setting of the buildings, habitat preservation and creation and landscaping.

The guidance document Greater Flexibility for Planning Permissions published in November 2009 states that in determining applications to extend the time limit for implementing planning permissions "Local Planning Authorities should take a positive and constructive

approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date". The guidance continues "Local Planning Authorities should, in making their decisions, focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission".

The Employment Land and Premises Study 2010 acknowledges the site in the potential employment monitoring appraisal but excludes it as it is a building conversion.

In the Hinckley and Bosworth Landscape Character Assessment 2006 the site falls within the Charnwood Fringe Character Area which is described as the most diverse within the borough, the landscape pattern is varied and contrasting with views either limited by landform and vegetation or contrastingly panoramic.

Appraisal:-

In determining the previous application, the principle of development and its impact on the character and appearance of the existing buildings, the surrounding landscape, the highway network; neighbouring residential properties, drainage and ecology were considered. Whilst there was some conflict with the development plan in terms of the sustainability and accessibility of the site, this was considered to be outweighed by the positive benefits of bringing these buildings back into use and securing their long term future together with providing additional employment opportunities. Therefore, on balance, the proposals were considered to be acceptable and planning permission was granted subject to a number of conditions. The main considerations in determining this application are whether any development plan policies or other material considerations have changed significantly since the grant of permission which may lead to a different conclusion on the acceptability of the application and if the originally imposed conditions are still reasonable and necessary to make the development acceptable in planning terms.

Changes in National, Regional and Local Planning Policy

Since the approval of the previous outline planning permission there have been a number of changes to national, regional and local planning policies.

Planning Policy Statement 4; 'Planning for Sustainable Economic Growth' was published in 2009. This national guidance encourages the approval of applications for the conversion and re-use of suitable existing buildings in the countryside for economic development purposes where the benefits outweigh the harm in terms of the impact on the countryside, landscapes and wildlife and where it is desirable to conserve buildings with some historic value. The location and sustainability issues in respect of the site were considered during determination of the previous application and found to be acceptable due to the benefits of securing the long term future of the buildings for economic development purposes and the potential contribution to the local and wider economy from the provision of a high quality employment site.

Planning Policy Statement 5: 'Planning for the Historic Environment' was published in March 2010 and replaced Planning Policy Guidance Notes 15 and 16. This national guidance requires opportunities to be taken to contribute to knowledge and understanding of the historic environment by ensuring that appropriate levels of archaeological investigation and recording are carried out where necessary. The previous application was accompanied by an archaeological desk based assessment of the site which concluded that the farm complex pre-dates 1886 and whilst few of the original buildings remain, some are of historical significance. As a result, the previous permission included a condition (4) requiring the

implementation of a programme of historic building recording to be undertaken and this has been repeated together with an additional condition requiring satisfactory implementation, monitoring, reporting and archiving as recommended by the Directorate of Chief Executive (Archaeology).

The East Midlands Regional Plan was adopted in March 2009 and revised the Regional Spatial Strategy (RSS) 8 for the East Midlands (adopted 2005) and the Leicestershire, Leicester and Rutland Structure Plan 1996-2016 (adopted (2005)). It is considered that there is a significant degree of continuity between the objectives of regional planning policy at the time of determination of the previous application and current regional planning policy such that there is no significant changes that would lead to a different conclusion on the acceptability of this application

The Local Development Framework: Core Strategy was adopted in 2009. This document does not contain any policies specifically relating to the application site but includes a number of spatial objectives and specific policies relating to transport in rural areas (policy 14) and development in the National Forest (policy 21) that are in conformity with the East Midlands Regional Plan.

The previous application was considered against the same Hinckley and Bosworth Local Plan (adopted 2001) policies which have been 'saved' by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004. The only exception is that policy NE21 has been replaced by policy 21 of the adopted Core Strategy which contains similar aims and objectives relating to development within the National Forest.

Whilst there have been a number of changes in national planning guidance, regional planning policy and local planning policy since determination of the previous application, on balance it is considered that the changes in planning policy are not so significant or material that they would lead to a different decision being made on the acceptability of the proposed development of the site. It is considered that given the current economic situation, the extension of time can be justified in planning terms and is in line with advice in the guidance document 'Greater Flexibility for Planning Permissions' published in November 2009.

Other Material Considerations

Structural Condition

Since the previous application was determined, a number of the single storey brick barns have had the Swithland slate roof covering removed resulting in exposure of internal areas and the roof timbers. As a result, an up to date assessment of the structural condition of the barns and roof timbers has been submitted to assess the impact of the removal of the slates on the structures and to demonstrate that the buildings are still capable of conversion without significant rebuilding. The structural report concludes that the buildings are free from significant structural defects and that subject to the replacement of the roof covering and localised strengthening and repair works where appropriate the buildings are readily adaptable for the intended uses. The findings of the report have been assessed by the Building Control Section and it is considered to be reasonable in its findings.

Biodiversity

Bat surveys carried out in 2004 and 2006, and submitted to support the previous application, identified that certain buildings within the complex had active bat roosts within them. Natural England objected to the previous application as they considered that inadequate information had been submitted to demonstrate whether or not the proposed development would have an adverse effect on species protected by law (in particular bats) as the bat surveys

submitted were considered to be out of date at the time the application was being considered. The then, Director of Community Services (Ecology), did not object to the application but considered that further surveys and a mitigation plan should be provided (in accordance with the recommendations of the submitted bat surveys) and appropriate licences obtained from Natural England prior to any works commencing.

As a result of the objection from Natural England in 2008, a further bat survey was carried out in February 2008 which, whilst not within the optimum time of year, found a lack of evidence of bat activity within the buildings and appeared to point to the roosts having been abandoned since the 2006 survey. No further response was received to the additional survey from Natural England but in view of the response from the Director of Community Services (Ecology) it was considered that it would be unreasonable to refuse the application on these grounds alone, when an appropriately worded condition could be attached requiring further investigation and, if necessary, mitigation schemes to be submitted to satisfactorily address this issue, particularly as this would also be a requirement of obtaining a bat license from Natural England and other species are protected by legislation. Accordingly, condition 17 of the previous planning permission required further ecological assessments to be carried out prior to development commencing in order to properly assess any impact on bats and bat roosts together with any necessary mitigation strategies.

Natural England has again objected to the application on the grounds that insufficient information has been submitted in respect of species protected by law, including bats, amphibians and badgers and that up to date surveys are required in order to fully assess the impact on the biodiversity of the site. At the time of writing this report discussions are ongoing with Natural England, the applicant's agent and the applicant's protected species surveyor. The outcome of these discussions will be reported as a late item.

Conditions

The conditions imposed on the previous planning permission and the reasoning for their imposition has been reconsidered. The consultation responses from the Director of Environment and Transport (Highways), Directorate of Chief Executive (Archaeology), Environment Agency and Head of Community Services (Pollution) repeat their recommendations and conditions from the previous application. The previously imposed conditions in respect of limitations of use, external materials, external storage, historic building recording, ground and surface water drainage, highway improvement works to provide satisfactory access to the site, signage, travel plan, parking, public rights of way, landscaping, ecology/protected species and illumination of the site are all considered to remain relevant, reasonable and necessary in order to secure satisfactory development. It is considered that the previously imposed conditions remain relevant, reasonable and necessary to ensure satisfactory development of the site and that these should be carried forward to any new planning permission, with some minor changes. The applicant does not oppose this approach.

An additional condition (6) has been recommended by the Directorate of Chief Executive (Archaeology) requiring the applicant to complete the archaeological work, including report writing and deposition of the archive, within six months of the start of the fieldwork. The imposition of this additional condition will enable the applicant to fully discharge the historic building recording condition (5) prior to commencement of development and is therefore considered to be less onerous.

Notwithstanding the recent addendum report submitted in respect of the structural condition of the buildings, in view of the historical significance of some of the buildings, the time that has elapsed and the removal of the roof coverings from some of the buildings since the previous permission was approved, it is considered that an additional condition requiring further structural survey work together with a methodology for the implementation of the

conversion works for approval prior to commencement is necessary and reasonable in this case to ensure that the conversion is carried out in a sympathetic manner and in accordance with adopted policies.

Conclusion

The conversion of redundant farm buildings, particularly for employment purposes in rural areas, is encouraged by government guidance and development plan policies and in this case is considered to be acceptable in principle. The proposed scheme achieves a sympathetic conversion to preserve the original character and appearance of the complex with only minor extensions to existing buildings which are capable of conversion without significant rebuilding, whilst providing a high quality working environment with built-in flexibility for future occupiers of the units. The complex is not prominent within the landscape and substantial landscaping has been carried out to further screen the development from the surrounding countryside and limit its impact. Highway improvements are proposed at the junction of the main access with Ratby Lane to provide safe access to the development.

It is considered that there have been no significant or material changes in national, regional or local planning policies or other material considerations that would lead to a different determination on the acceptability of the previously approved planning permission for the conversion of these former farm buildings for Class B1 and Class B8 employment uses. Whilst there may be some conflict with government guidance in terms of the location of the site in sustainability terms, that conflict is still considered to be outweighed by the positive impacts of bringing these historic buildings back into use and securing their long term future together with providing additional employment opportunities arising from the proposed development. As a result, given the current economic situation it is considered that this extension of time application is acceptable in planning terms and is therefore recommended for approval subject to similar conditions to those previously imposed.

RECOMMENDATION:- That subject to satisfactory resolution of the outstanding ecology issues before 15 February 2011, the Deputy Chief Executive (Community Direction) be granted delegated powers to issue planning permission subject to the conditions below. Failure to resolve the outstanding ecology issues by 15 February 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 it relates to the sympathetic conversion of existing suitable buildings and would not have an adverse impact on the character or appearance of the buildings or the surrounding landscape, highway safety, ground or surface water drainage or biodiversity. Any conflict with government guidance in sustainability terms is considered to be outweighed by the positive impacts of bringing these historic buildings back into use and securing their long term future together with providing additional employment opportunities arising from the proposed development.

Local Development Framework: Core Strategy (2009):- policies 14 & 21

Hinckley & Bosworth Borough Council Local Plan (2001) :- policies EMP4, BE1, BE16, BE26, NE5, NE7, NE12, NE13, NE14, NE19, T5 and T11

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

- 2 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the buildings shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 3 There shall be no storage of materials, plant, oil drums, tyres or waste materials of any description on the open area of the site unless otherwise agreed in writing by the Local Planning Authority.
- 4 Notwithstanding the submitted details prior to any development commencing, a report providing full details of the structural condition of the buildings together with full details of the method by which the existing structures are to be supported and retained whilst the works for conversion and repair hereby permitted are carried out shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved method statements.
- 5 No development shall take place until the applicant has secured the implementation of an appropriate programme of historic building recording in accordance with a Written Scheme of Investigation which has been submitted to and approved in writing by the local planning authority. The development shall be undertaken only in full accordance with the approved written scheme
- 6 The applicant shall notify the local planning authority of the intention to commence works (including site works of any kind) at least one week before such commencement. Thereafter, the programme of archaeological work shall be completed in accordance with the approved written scheme of investigation, including any necessary fieldwork, analysis, report writing and archive deposition, as detailed in the approved scheme. The report and archive shall be prepared and deposited no later than six months after the commencement of the fieldwork.
- 7 Before any development commences, a Method Statement detailing remediation requirements, including measures to minimise the impact on ground and surface waters, shall be submitted to and approved in writing by the Local Planning Authority. The remediation works shall then be completed in accordance with the approved details.
- 8 Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
- 9 Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, vessel or the combined capacity of interconnected tanks or vessels plus 10%. All filling points, associated pipework, vents, gauges and sight glasses must be located within the bund or have separate secondary containment. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank/vessels overflow pipe outlets shall be detailed to discharge downwards into the bund.

- 10 Notwithstanding the submitted details, no development approved by this permission shall be commenced until a scheme for the provision and implementation of surface water run-off limitation has been submitted to and approved in writing by of the Local Planning Authority. The scheme shall incorporate sustainable drainage principles to reduce flood risk and improve water quality, and shall be implemented in accordance with the approved programme and details.
- 11 No part of the development hereby approved shall be occupied until details of a Green Commuter Travel Plan containing a travel to work, car use and car parking management strategy for the site as a whole has been submitted to and agreed in writing by the Local Planning Authority. The Green Commuter Travel Plan shall then be implemented in accordance with the approved details.
- 12 Prior to the development commencing, access improvements to the sites Ratby Lane junction shall be provided as shown on the approved drawing No. 03.1712.38B. Nothing shall be allowed to grow above a height of 0.9 metres above carriageway level within the visibility splays.
- 13 Prior to development commencing details of the treatment of the bridleway / footway / cycleway link from the buildings to the A50 Markfield Road, Groby shall be submitted to and approved in writing by the Local Planning Authority and shall include measures to restrict all vehicular access to the application site from the A50 and any street lighting. The development shall then be carried out in accordance with the approved details.
- 14 Prior to the development commencing details of road traffic signing for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 15 The car parking and lorry parking shown within the site shall be provided before the development is brought into use and shall thereafter permanently remain available for such use.
- 16 The premises shall not be used other than for purposes falling within Classes B1 and B8 (as shown on the approved drawing No. 03.1712.29B) of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 17 Before development commences full details of the provision to be made for landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 18 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.
- 19 Notwithstanding the information already submitted, no development approved by this permission shall be commenced until a further ecological assessment, carried out during the appropriate season, has been submitted to and approved in writing by the Local Planning Authority. The assessment shall fully consider the impact of the

development on bats and potential roosts on the site, together with a mitigation plan where necessary. No development shall take place except in accordance with the approved details.

- 20 Before any development commences on site full details of the proposed illumination of the site and access roads shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.
- 21 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 1:10000 scale; Block Plan Dwg. No. 03.1712.29B; Plan and Elevations Dwg. Nos. 03.1712.33C; 03.1712.34C 03.1712.35B; 03.1712.36C; Site Access Dwg. No. 03.1712.38B received by the local planning authority on 8 January 2008 and amended Plans and Elevations Dwg. Nos. 03.1712.30C and 03.1712.37C received by the local planning authority on 6 March 2008.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 3 To ensure that the site has a satisfactory external appearance and does not deteriorate into an untidy condition to accord with policies NE5 of the adopted Hinckley and Bosworth Local Plan.
- 4 To enable the local planning authority to retain control over this important detail in the interests of preserving the character and appearance of the buildings and ensure satisfactory development to accord with policy BE20 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 7.
- 5 To ensure satisfactory historic building recording to accord with policy BE16 of the adopted Hinckley and Bosworth Local Plan.
- 6 To ensure satisfactory archaeological investigation and recording to accord with policy BE16 of the adopted Hinckley and Bosworth Local Plan.
- 7 To ensure that the site is suitable for its intended use, and to protect surface and groundwater quality in the area to accord with policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 8&9 To prevent pollution of the water environment to accord with policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 10 To prevent the increased risk of flooding to accord with policy NE13 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 25 'Development and Flood Risk'.
- 11 In the interests of sustainable development and to promote alternative modes of travel to the site to accord with policy T3 of the adopted Hinckley and Bosworth Local Plan.

- 12 To afford adequate visibility at the junction to cater for the expected volume of traffic joining the existing highway network and to provide safe harbourage for right turning vehicles in the interests of highway safety to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 13 In the interests of highway and pedestrian safety to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 14 In the interests of highway safety to provide directional signing to the development to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 15 To ensure that adequate off-street parking provision is made to accord with policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 16 To ensure that the use remains compatible with the surrounding area and does not become a source of annoyance to nearby residents to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 17 To enhance the appearance of the development to accord with policies BE1, NE5 and NE12 of the adopted Hinckley & Bosworth Local Plan.
- 18 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE1, NE5 and NE12 of the adopted Hinckley & Bosworth Local Plan.
- 19 The bat survey reports submitted with the application did not adequately consider the impact on bats and their roosts and this information is required to accord with policy NE7 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 9 'Biodiversity and Geological Conservation'.
- 20 To ensure that the development has a satisfactory external appearance and is in keeping with the rural character of the area to accord with policies BE1 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 21 For the avoidance of doubt and in the interests of proper planning.

Notes to Applicant:-

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

- 5 Bats have been recorded within the site and are protected by law. A watching brief (maintained by the applicant and all workers on site) for all protected species should be maintained throughout the development. If any such species are discovered before or during the works, the works must be suspended and the local office of Natural England contacted for advice.
- 6 The proposal is situated in excess of 45 metres from the Highway. In order to cater for emergency vehicles the drive and any turning areas shall be constructed so as to cater for a commercial or service vehicle in accordance with British Standard B.S.5906, 2005 and Building Regulations Approved Document B, Fire Safety 2006.
- 7 C.B.R. Tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Area Manager.
- 8 The Developer will be required to enter into an agreement with the Highway Authority under Section 278 of the Highways Act 1980 for works within the highway and detailed plans shall be submitted and approved in writing by the Highway Authority. The Section 278 Agreement must be signed and all fees paid and surety set in place before the Highway works are commenced.
- 9 In relation to condition 14, with regard to the required traffic signing you must ensure that prior approval is obtained from the County Council's Area Manager for the size, design and location of any sign in the Highway. Before you draw up a scheme, the Area Managers' staff (Tel. 01455 287202) will be happy to give informal advice concerning the number of signs and the locations where they are likely to be acceptable. This will reduce the amount of your abortive sign design work.
- 10 In relation to condition 13, a public footpath / bridleway crosses the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council.
- 11 In relation to conditions 5 and 6, the Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the local planning authority. To demonstrate that the implementation of the WSI has been secured, the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

Contact Officer:- Richard Wright Ext 5894

Item: 05
Reference: 10/00970/FUL
Applicant: Ms J Squires
Location: Land Adjacent Lodge Farm Wood Road Nailstone
Proposal: CHANGE OF USE OF LAND TO GYPSY SITE FOR ONE CARAVAN
Target Date: 2 February 2011

Introduction:-

This 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 is a full application for the creation of a site for one family that fall under the definition of a Gypsy for the purposes of Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites. The site is proposed with one mobile home to be located at the southern end of the site with a vehicular access, driveway and hardstanding for parking and one touring caravan. Additional planting is proposed to the east, west and north site boundaries. No buildings are proposed as part of the application.

The Site and Surrounding Area

The site is 0.15 hectares and currently forms part of a field, located on the eastern side of Wood Road in an area of countryside. To the south of the site is a field which separates the site from Lodge Farm which is currently used for a commercial goods vehicle business. There is an area of woodland to the north. There is an existing hedge to the road frontage. The vacant Nailstone Colliery site is located on the opposite side of Wood Road approximately 175 metres to the north.

Technical Documents submitted with application

The Design and Access Statement submitted with the application states that the plot proposed will measure 20 metres by 30 metres which is domestic in scale and character. Additional planting will be carried out to the east, west and north sides of the site. No commercial activity will take place on the site and the proposal will give rise to minimal traffic generation. The statement concludes that the site offers a sustainable location, reasonably close to community facilities in Nailstone (1 km distant), Bagworth, (3 km distant), Barlestone (3 km distant), and Ibstock (4 km distant).

Further information in relation to highway issues has been submitted by the agent. The information states that the proposed access has been positioned to provide maximum visibility for drivers and the agent considers that the previous letter and speed survey undertaken in November 2006 in relation to the 2007 application remains pertinent in regard to the highway safety implications (although the level of traffic generation is now much reduced in the current proposal). The agent also considers that there are several factors which distinguish this application from the previously refused application at the site. It is stated that the reduction in the scale of development and consequent reduction in traffic

generation, brings the proposal within the guidance in paragraph 66 of ODPM Circular 01/2006, which states unequivocally that planning permission should not be refused if the proposal 'would only give rise to modest additional daily vehicle movements and/or the impact on minor roads would not be significant.' Although it has been announced that the Circular is to be replaced, it currently remains in force and there is no reason to suppose that the guidance in paragraph 66 will be changed.

The agent also refers to the appeal decision in respect of the use of land as a single family Gypsy site at Heath Road, Bagworth, and states that the Borough Council defended a refusal of permission by reliance on a similar but more robust reason to that put forward at Lodge Farm, but the Inspector gave limited weight to the HTD, given the clear conflict with paragraph 66 of ODPM Circular 01/2006.

The agent goes on to state that there is a lack of progress on the identification of and provision of Gypsy and Traveller sites within the area and negligible progress in site provision since the previous appeal decision in 2007 and there remains a very considerable shortfall in provision. The situation is compounded by the Council's decision to remove the allocation of sites for Gypsies and Travellers from the Allocations DPD and to develop a separate Gypsy & Traveller Allocations DPD, with public consultation not scheduled to commence until 2013.

The applicant has submitted a letter stating his intention to sell The Gables site and the additional land at Wood Road in his ownership to the private community through local estate agents.

History:-

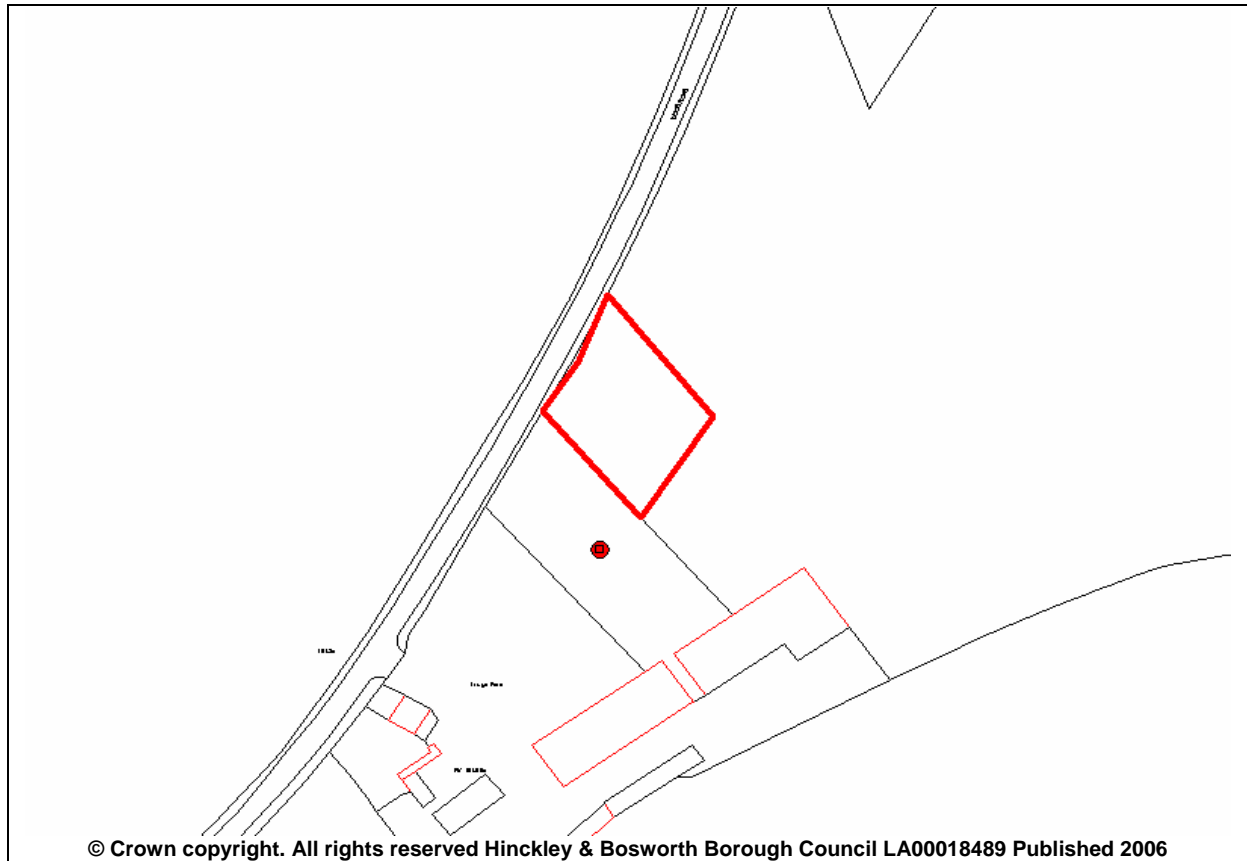
09/00336/FUL	New access to Field	Refused	10.06.09
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Enforcement History:

09/00242/UNAUTH	Enforcement Notice in relation to an unauthorised access onto a classified road	Dismissed on Appeal	21.12.09
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Application on adjacent site:

07/01305/COU	Change of Use to residential caravan site for four gypsy families with eight caravans including construction of access road, stables and hardstanding	Dismissed on Appeal	09.07.08
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Consultations:-

No objections subject to conditions received from The Head of Community Services (Pollution Control).

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

No objection received from The Director of Property Services (Gypsy Liaison) who confirms that the family fall under the definition of Gypsies under Planning Circular 01/2006 and have lived in the local area for 20 years.

The Directorate of the Chief Executive comments that a watching brief for Great Crested Newts should be imposed and that any hedge planting required should be of native species.

The Director of Environment and Transport (Highways) objects to the creation of a new access on a Class II road in a location remote from main development where traffic speeds are generally high.

Nailstone Parish Council object to the application on the grounds of the access which was previously refused and dismissed at appeal.

Neighbours notified and site notice posted.

Six letters of objection received on the following grounds:-

- a) Not identified as a gypsy allocation in the LDF
- b) land is agricultural should not become residential

- c) refers to previous refusals on the site
- d) highway safety concerns on fast road
- e) no access to land
- f) existing access at Lodge Farm
- g) proximity to Nailstone Colliery site
- h) potential for contamination
- i) concern that application could lead to stables and horse traffic
- j) other sites in parish and vicinity
- k) spare capacity on the Good Friday site
- l) no guarantee that site will not be extended.

Development Plan Policies:-

Central Government Guidance

Planning Policy Statement 3: Housing (PPS3) sets out the Government's national planning policy framework for delivering its housing objectives. Paragraphs 12-19 of PPS3 stress the importance of good design in developing high quality new housing and identify the key issues which must be considered to achieve this. Paragraphs 20 to 24 identify the key characteristics of a mixed community and make it clear that this can only be secured by achieving a good mix of housing, including accommodation for Gypsies and Travellers.

Planning Policy Guidance Note 13: 'Transport' seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices.

Circular 01/2006 - Planning for Gypsy and Traveller Sites replaces Circular 01/94. Its main intentions are:

To significantly increase the number of Gypsy and Traveller sites with planning permission in order to address under-provision;

- To recognise, protect and facilitate the traditional lifestyle of Gypsies and Travellers;
- To identify and make provision for the resultant land and accommodation requirements;
- To help or avoid Gypsies and Travellers becoming unintentionally homeless;
- To reflect the status of Gypsy and Traveller accommodation as a part of wider housing provision;
- To create and support sustainable, integrated communities where Gypsies and Travellers have equality of access to suitable accommodation, education, health and welfare provision, and where there is mutual respect between all communities for the rights and responsibilities of each community and individual;
- To promote more private Gypsy and Traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites;
- To underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively;
- To ensure that Development Plan Documents include fair, realistic and inclusive policies to ensure identified need is dealt with fairly and effectively; and
- To reduce the number of un-authorized encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this circular.

The Housing Act requires Local Authorities to take account of the accommodation needs of Gypsies and Travellers and to create strategies for meeting those needs in the same way as they do for the settled community.

Local Development Framework Core Strategy 2009

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

Hinckley and Bosworth Local Plan 2001

The site lies outside of any settlement boundary, within the countryside where policy NE5 of the Local Plan seeks to protect the countryside for its own sake and any development having a significant adverse effect on the appearance or character of the landscape will not normally be appropriate.

Policy T5 of the Local Plan relates to highway design and vehicle parking standards. The policy states development that involves the creation of a new access will be subject to the highway design standards.

Policy RES13 has been 'saved ' but is superseded by Policy 18 of the Core Strategy.

Supplementary Planning Guidance / Documents

Designing Gypsy and Traveller Sites: Good Practice Guide is primarily intended to cover social site provision and states that there is no single, appropriate design for sites, and that it is important to ensure that sites.

- a) are sustainable, safe and easy to manage and maintain
- b) are of a decent standard, equitable to that which would be expected for social housing in the settled community
- c) support harmonious relations between Gypsies and Travellers and the settled community.

The Guide states that it will not be possible to meet all aspects of this guidance in every respect on every site. Local authorities and registered social landlords will need to take decisions on design on a case by case basis, taking into account local circumstances such as the size, geographical and other characteristics of the site or prospective site and the particular needs of the prospective residents and their families. In the case of small private site development there will be similarities but it should be recognised that those sites are designed to meet the individual and personal preferences of the owner and may contain elements which are not appropriate or popular for wider application in respect of social provision. It would not therefore be appropriate to use the good practice guidance in isolation to decide whether a private application for site development should or should not be given planning permission.

The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016 identifies the needs for gypsy and travellers within the Borough up until 2016.

The Black and Minority Ethnic Communities Housing in the East Midlands: A Strategy for the Region, recommendation 8 states that ' It is imperative that local authorities make immediate

progress in site identification to meet the needs of Gypsies and Travellers rather than relying on the development of policies through the local development framework.'

Appraisal:-

The main considerations with regard to this application are the principle of development, policy considerations, effect on the countryside, neighbours issues and highway safety.

Principle and Policy Considerations

The 2008 application for a larger gypsy site adjacent to the current proposal was refused but only on grounds of highway safety. Since the appeal decision, the Core Strategy has been adopted and appeals have been allowed at Heath Road and the Good Friday site, both of which were refused on grounds of highway safety. The issue for consideration is whether the needs of the gypsy family and the development satisfies the criteria of Core Strategy Policy 18 and Policy RES13 of the Adopted Hinckley and Bosworth Local Plan.

Gypsy and Traveller Need

The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016 identifies a need for 42 residential pitches for the period up until 2016 within the Borough, this figure has been adopted with the Core Strategy. Since the Accommodation Needs Assessment was adopted in April 2007, a total of four sites have received permanent planning permission within the Borough, two pitches at The Paddock, Higham on the Hill, one pitch at Stoke Lane Higham on the Hill, three permanent pitches and eight transit caravans at Hydes Lane, Hinckley and one pitch at Heath Road, Bagworth (allowed on appeal). Accordingly, the approval of these pitches has reduced the Borough Council's requirements to 35 permanent pitches. Furthermore, 10 temporary pitches have been allowed on appeal at the Good Friday site at Barlestone. Approval of this site for one family would go towards meeting the current shortfall in permanent sites.

Policy 18 of the Core Strategy seeks to permit sites for Gypsy and Travellers subject to compliance with a number of criteria.

Proximity to Settlement/Services

It is a requirement of the policy that sites are located either adjacent to existing settlements or located within a 'reasonable' distance.

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

Highway Safety

Criteria 4 of Policy 18 of the Core Strategy requires gypsy and traveller sites to have a safe highway access as well as provision for parking and servicing.

The Director of Environment and Transport (Highways) has commented as follows:

"The proposed development would be accessed direct from the B585 Wood Road roughly equidistant between Bagworth to the north and Nailstone to the South. Wood Road is an unlit, derestricted, class II highway with 85th percentile speeds in the region of 50mph in both directions. Wood Road also forms part of the County wide 'Lorry Routing Network' and carries a relatively high number of HGV movements.

The site does not currently benefit from an access to the public highway although an access has been formed into the adjacent field by the applicant (without the benefit of planning permission).

A previous application to site 8 caravans on the adjacent site (ref: 2007/01305/COU) was refused by the Planning Authority on the following grounds:

'In the opinion of the Local Planning Authority, the proposal would result in the creation of a new vehicular access onto an unlit section of Class II road in a location remote from main development where traffic speeds are generally high. An increase in turning traffic in such a location would not be in the best interests of highway safety. If permitted the access could create a precedent for similar proposals which would be difficult to resist that would not be in the interests of highway safety. The proposal is therefore contrary to the Highway Authority's Access to Road Network and development control policies and policies RES13 and T5 of the adopted Hinckley & Bosworth Local Plan'

The applicant subsequently appealed the decision to the Secretary of State and a Public Inquiry was held in June 2008. The appeal was dismissed in July 2008. This decision is a material consideration in the assessment of the current application. In the interests of clarity, the following salient points have been extracted from the decision notice:

- The location of the site is such that policy IN5 applies, this specifies that new accesses will 'normally be resisted' irrespective of the ability to provide satisfactory visibility splays (Para. 11)
- Wood Lane does not necessarily cater for local traffic and therefore a significant proportion of highway users are likely to be unfamiliar with the road.
- The nature of the road, together with the lack of street lighting would contribute to the hazard that a residential access would present in this location (Para. 14)

Obviously the scheme now under consideration is for 1 caravan not 8. This reduction is material.

Unfortunately when considering the 07/01305 appeal, the Inspector did not indicate whether a smaller scheme would have been more acceptable. In the absence of such a direction, I have had cognisance to the appeal in respect of 09/00336/FUL which was a retrospective application for a new field access a short distance from the application site. The access was constructed to gain access to a field for the purposes of grazing horses, a use which would generate very few traffic movements.

In dismissing the appeal the Inspector was in no doubt that the introduction of even a small number of turning movements to/from Wood Road would not be in the best interests of highway safety, noting:

'the appeal proposal would introduce turning traffic and the associated risks to road safety at a location where traffic speeds are relatively high on a road with a history of accidents'.

A supporting statement submitted by the agent raises a number of arguments. It cites the speed of traffic and ample visibility splays in support of the proposal however, it is clear to

me given both the previous appeal decisions, that this is largely irrelevant in terms of compliance with policy IN5.

It goes on to reference a recent appeal decision at Heath Road, Bagworth, however it is my view that there are very few similarities between that part of the highway network and Wood Road.

I do however accept the point the agent makes in relation to the conflict between policy IN5 and paragraph 66 of Circular 01/2006 and shall return to this point later. Notwithstanding this, I do not accept that the Council has applied Policy IN5 inconsistently and dismiss any suggestion of prejudicial treatment towards the applicant.

Finally, the applicant has referred to the 'Good Friday' decision in March 2010 (ref: 09/00159/UNBLD) which allowed an enforcement appeal against the unauthorised change use from stabling horses to a residential caravan site. I cannot agree with the applicant that this decision sets a precedent for development on his site. The Inspector is quite clear in paragraph 20 that there are a number of differences between Bagworth Road and Wood Road. In respect of the latter, the Inspector opined:

'Traffic speeds were relatively fast I encountered a number of HGVs also travelling at pace. When I drove along Bagworth Road it was not so heavily trafficked and I was not aware of any predominance of HGV traffic and the speed of traffic seemed more curtailed'

The Highway Authority would concur with these comments, as there are clear differences between the nature of Bagworth Road and Wood Road. As such, I do not consider that the 'Good Friday' decision sets any kind of precedent for development at Lodge Farm.

The final issue to consider is whether the prima facie conflict between Circular 01/2006 and PPG 13/Policy IN5 is sufficient to warrant a favourable highway recommendation. This I accept is a finely balanced decision. Rather than being technical highway guidance, Circular 01/2006 is in fact a planning document. It advises that planning applications which 'give rise to a modest increase in additional daily vehicle movements' should not be refused. The agent then goes on to state that in the context of this advice 'no development could generate less traffic than a site for one gypsy family'.

It is important to note that Annex B of 01/2006 states that the advice contained within the circular does not affect advice given in other Planning Policy Guidance Notes such as PPG 13. This is a key point because Policy IN5 is derived from the advice in Annex B of PPG13. Moreover, Paragraph 5, Annex C of Circular 01/2006 states that sites should have 'safe and convenient access to the road network'. Two previous Inspectors have concluded a new access along this stretch of Wood Road would not be safe.

I accept that the scale of development is small but this is not an existing site nor is there an existing access to the highway and therefore the traffic generated by the development would be new traffic and not 'additional' as stipulated in the Circular. Given the wording of paragraph 66, I am of the view that this advice could be interpreted as being more applicable to existing gypsy/traveller sites rather than new ones.

In respect of paragraph 66, it is also important to have regard to the unsustainable location of the site, in particular the lack of pedestrian facilities and local services which is likely to result in future occupants being overly if not totally reliant on car borne trips. This lack of transport choice would result in a higher number of trips compared to the same development in a more accessible location. In view of this, the Local Planning Authority should give serious consideration to whether this proposal is consistent with the advice in PPG 13 and paragraph 64 of Circular 01/2006.

In view of the above and the site history, it is the view of the Highway Authority that a reason for refusal based on highway safety/accessibility grounds is appropriate. The Highway Authority, as stated on previous occasions, would look more favourably on a proposal which utilises the existing Lodge Farm access".

It should be noted that the appeal decisions at Heath Road and the Good Friday site, as well as the appeal decision on this site are material considerations. Legal advice has been sought in respect of the weight that should be applied to those decisions, which centred on issues of highway safety, having regard to the views of the Director of Environment and Transport (Highways) and whether they can be sustained at appeal. The advice obtained is that 'having regard to the material findings of two previous appeal inspectors concerning the safety of an access at this location, that refusal of the current application on highway safety grounds could be justified'. However, with regard to the non-sustainable location, the advice goes on to say 'Given the advice, in paragraph 54 of Circular 01/2006 i.e. that '..Rural settings, where not subject to special planning constraints, are acceptable in principle. In assessing the suitability of such sites, local authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services', refusal of planning permission for a single gypsy family on sustainability grounds would be difficult to substantiate on appeal.

Sympathetic Assimilation

The policy requires 'sympathetic assimilation' of the site into its surroundings. The site is located within an area of open countryside. In this case it is considered that assimilation could be achieved by a satisfactory landscaping scheme being agreed. That has never been an issue in previous consideration of this proposal.

Noise and Disturbance

The nearest dwelling to the site is Lodge Farm which is located some 87 metres from the site boundary. A haulage business is operated from this site. It is considered that the proposal and the adjacent uses at Lodge Farm and potential uses approved for the Nailstone Colliery site have an acceptable relationship.

Safe and Healthy Environment of Residents

Policy 18 requires the proposal to be considered in line with the design guidelines detailed in the National Guidance Designing Gypsy _ Traveller Sites, Good Practice Guide. It states that many Gypsies and Travellers express a preference for a rural location which is on the edge of or closely located to a large town or city consistent with traditional lifestyles and means of employment. This site would meet this aspiration. It goes on to say that sites should not be situated near refuse sites, industrial processes or other hazardous places, as this will obviously have a detrimental effect on the general health and well-being of the residents and pose particular safety risks for young children. There are no known hazards associated with this site, it is not located on contaminated land nor within an area of flood risk. Emergency vehicles could access the site. The guide says that essential services (mains water, electricity drainage and sanitation) should be provided.

Design and Layout

The guide goes on to say that sites of various sizes, layouts and pitch numbers operate successfully today and work best when they take account of the size of the site and the needs and demographics of the families resident on them with the safety and protection of

children in mind. The site is for one pitch and will be privately owned. It is considered that an acceptable layout could be achieved.

Other Considerations

Circular 01/06 provides that consideration of a temporary permission has to be considered. Paragraph 45 states:

'Where there is unmet need but no available alternative gypsy and traveller site provision in an area but there is a reasonable expectation that new sites are likely to become available at the end of that period in the area which will meet that need, local planning authorities should give consideration to granting a temporary permission.'

In this instance, because the main concern is highway safety, it would not be appropriate to recommend that temporary planning permission be granted.

Interested parties have raised issues regarding other sites and spare capacity on existing sites within the local area, the site not being identified as a gypsy allocation in the LDF, that the land is agricultural, previous decisions on the site and highway safety comments, proximity to the Nailstone Colliery site, potential for contamination and concern that application could lead to stables and that the site could be extended.

The need to provide further pitches for Gypsy and Travellers within the Borough is considered elsewhere in the report. The site was not identified within the original Site allocations DPD, however, the Gypsy and Traveller element has been removed from the current Site Allocations DPD to allow improved stakeholder consultation and evidence gathering on selecting the most suitable sites. The Site Allocations DPD has been delayed due to the number of responses received at the Preferred Options stage (over 13,500) and the Council's focus on the Earl Shilton and Barwell AAP. Highway issues are considered elsewhere in the report. Potential contamination could be dealt with by separate legislation. Future developments at the site would require separate planning permission.

Sustainability

The proposed site is considered to be within a reasonable distance of settlements providing accessibility to local services. On the basis of the advice, in paragraph 54 of Circular 01/2006 detailed above, refusal of planning permission for a single gypsy family on sustainability grounds would be difficult to substantiate at appeal.

Conclusion

The proposal will not have a detrimental impact upon residential amenity and could be sympathetically assimilated by suitable landscaping to ensure no detrimental impact on the character and appearance of the countryside. The proposal goes some way to meet an established need for permanent Gypsy pitch provision within the Borough as identified within the adopted Core strategy and the aims of Circular 01/2006. However, due to the objection by the Highway Authority, the application is recommended for refusal.

RECOMMENDATION :- REFUSE, for the following reason:-

- 1 In the opinion of the Local Planning Authority, the proposal would result in the creation of a new vehicular access onto an unlit section of Class II road in a location remote from main development where traffic speeds are generally high. Such an increase and the consequent reliance on car borne trips would not be in the best interests of highway safety. Notwithstanding the advice in Circular 01/2006, the Local

Planning Authority consider that the proposal is therefore contrary to the Highway Authority's Access to Road Network and development control policies, advice in PPG13, policies RES13 and T5 of the adopted Hinckley & Bosworth Local Plan and Policy 18 of the adopted Local Development Framework Core Strategy.

Notes to Applicant:-

- 1 List of plans used in the determination of this application:- Site location Plan received 6 December 2010. Block plan received 8 December 2010

Contact Officer:- Louise Forman Ext 5682

Item: 06

Reference: 10/00962/EXT

Applicant: Mr Mike Jourdain

Location: Hinckley Island Hotel Watling Street Burbage

Proposal: EXTENSION OF TIME APPLICATION FOR PLANNING PERMISSION 07/01449/FUL FOR ALTERATIONS TO HOTEL TO PROVIDE SIXTY ADDITIONAL GUEST BEDROOMS AND ASSOCIATED CARPARKING.

Target Date: 9 March 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

This is an application for an extension of time for planning permission 07/01449/FUL for alterations to a hotel to provide sixty additional guest bedrooms and associated car parking. The previous application was a full submission and expires on the 12 March 2011, but the extension of time application has been made prior to the expiry date.

The extensions and alterations to the existing hotel would provide an additional sixty guest bedrooms to the complex together with an additional sixty car parking spaces within the site boundary. The proposed additional bedrooms would be constructed as a third storey above the two wings oriented west to east between the main reception, leisure and conference areas and the four-storey bedroom wings to the rear.

The Site and Surrounding Area

The hotel has been developed in a number of phases over a period of approximately 60 years. The main reception, health, leisure and conference facilities are located to the front of the site facing Watling Street with the bedroom accommodation radiating to the rear in five wings from a central four-storey staircase and foyer area.

The hotel currently provides 349 bedrooms together with bar and restaurant, health and leisure club, conference and meeting rooms. The existing parking areas are generally around the periphery of the site and between the bedroom wings of the hotel. An additional sixty parking spaces are proposed through re-planning some of the existing parking areas

and utilising additional areas. The ground levels of the site rise significantly from the south to the north giving a stepped appearance to the hotel.

The hotel is located to the east of Junction 1 of the M69 motorway and to the north of the A5 Watling Street on a 5 hectares site in the countryside to the south-east of Burbage. The site is located outside the settlement boundary, as defined by the adopted Hinckley and Bosworth Local Plan (2001).

Technical Documents submitted with application

The applicant has requested that a five year permission is granted for the application to allow flexibility in this unprecedented current economic climate and is particularly pertinent given the difficulties in securing funding for commercial development schemes on reasonable terms.

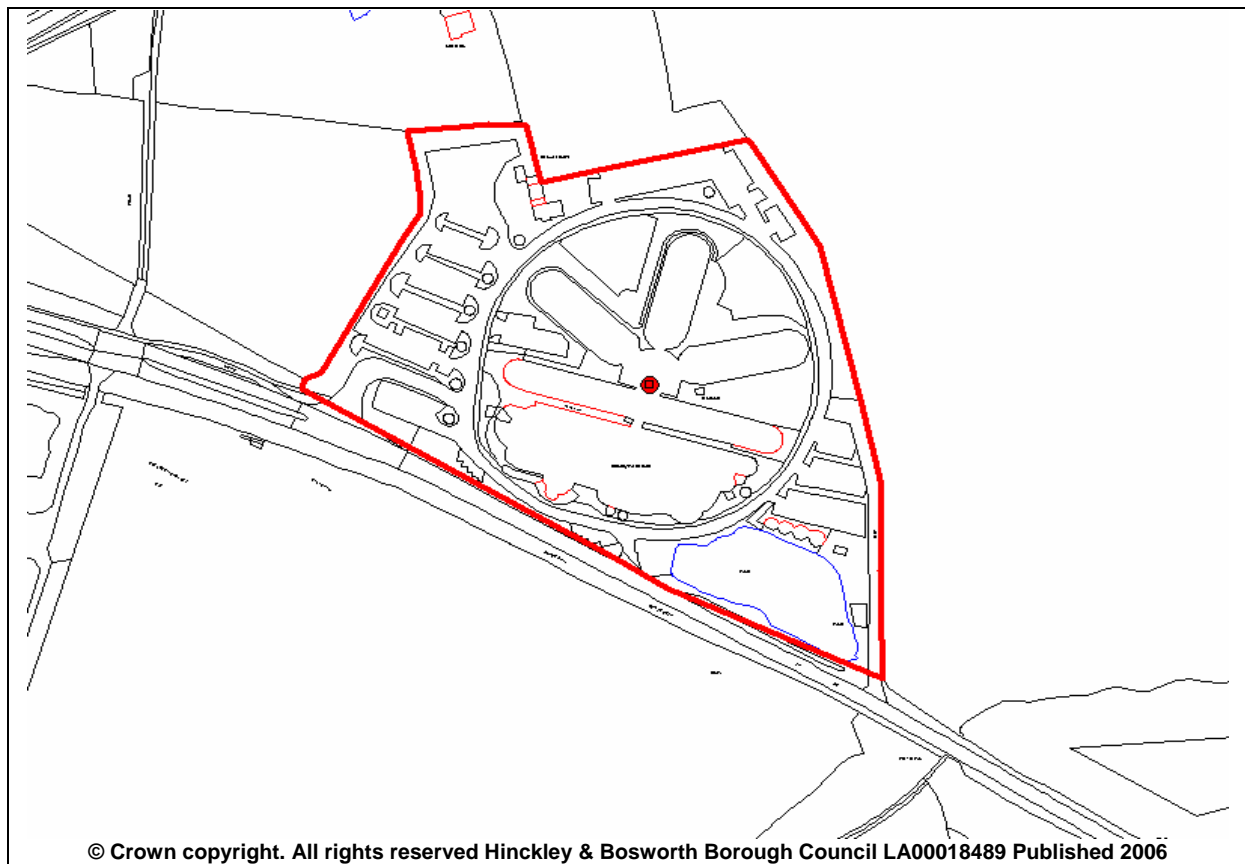
No additional supporting documentation has been submitted with the extension of time application, however the application for full planning permission was accompanied by a Design and Access Statement and Transport Assessment.

A Design and Access Statement was submitted in support of the previous application, which stated that the proposed extensions and alterations are required in response to the continuing growth in demand for hotel accommodation in the area. The proposals were considered to provide a logical solution to the need for additional accommodation at the hotel without the need to extend the footprint of the existing building or increase the built area of the site and with minimum disruption to the existing layout and circulation patterns of the hotel. The proposal to create an additional (third) storey above the bedroom blocks located between the reception, leisure and conference areas to the fore (which are currently single storey but for which planning permission (No. 07/00483/FUL) has been granted for a second storey over part of this element) and the 3½ and 4 storey elements to the rear is seen as providing a natural transition between the varying building elements. The additional storey would have a more contemporary design and be constructed in relatively lightweight materials with a mixture of glazed and rendered panelling providing a contrast to the heavier red brickwork superstructure beneath. The additional storey has also been recessed behind the line of the existing brickwork to reflect the difference in the elements of construction and provide small balconies to the larger end bedrooms. Additional housekeeping and plant rooms have been provided within the structure to avoid the need for service elements to project above the new flat roofline which will be no higher than the existing pitched concrete tiled roof over these elements of the building. The overall impact on the general massing of the hotel complex is minimised by the sensitive siting, design and construction materials proposed.

A Transport Statement has also been submitted in support of the application, which examines the accessibility of the site by the various modes of transport and the impact of the proposed development on the local highway network and wider trunk road network. The statement concludes that the site is well connected to the local and regional transport networks, the existing access is adequate to serve both the existing and proposed development, additional traffic generation will not be significant to cause any adverse impact on the local highway and strategic road network and adequate parking facilities are accommodated within the site.

History:-

10/00275/EXT	Extension of time for planning permission 07/00483/FUL for extensions and alterations to conference rooms	Approved	08.06.10
07/01449/FUL	Alterations to hotel to provide sixty Additional guest bedrooms and Associated carparking	Approved	12.03.08
07/00483/FUL	Extensions & Alterations to Conference Rooms	Approved	08.06.07
06/01250/FUL	Extensions & Alterations to Conference Rooms	Withdrawn	23.01.07
06/00475/FUL	Formation of Five Dormer Windows	Approved	21.06.06
06/00003/GDOT	Erection of Telecommunication Apparatus	GDOT	01.03.06
05/00409/FUL	Extension to Hotel	Approved	03.06.05
02/00216/FUL	Construction of External Fire Escape	Approved	04.04.02
01/00366/FUL	Alterations & Extensions to Form Staff Room,Stores & Yard Area	Approved	11.06.01
00/00015/FUL	Extension to Brasserie	Approved	07.02.00
97/00561/FUL	Installation of Security Gatehouse & Control Barriers	Approved	01.08.97



Consultations:-

No objection has been received from:-

Director of Highways, Transportation and Waste Management (Highways)
Head of Community Services (Pollution)
Head of Community Services (Land Drainage)
Environment Agency
Highways Agency
Rugby Borough Council
Burbage Parish Council

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

Director of Community Services (Ecology) advises that the developer should be made aware that bats and nesting birds are protected by law and that as the development involves works to a roof, that a watching brief be maintained to ensure that no species are present and that works are carried out outside the nesting season.

Site notice and Press notice were displayed and neighbours notified.

The consultation period remains open at the time of writing and closes on 20 January 2011. 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: Delivering Sustainable Development (PPS1) refers to the delivery of sustainable development through the planning system. It advises that planning policies should protect and enhance the environment, promote high quality design and reinforce local distinctiveness.

Planning Policy Statement 4 (PPS4): 'Planning for Sustainable Economic Growth' sets out the government's comprehensive policy framework for planning for sustainable economic development in urban and rural areas.

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 (c) states that in rural areas local planning authorities should support the conversion and re-use of appropriately located and suitably constructed existing buildings in the countryside.

Policy EC7 (b) states that tourist and visitor facilities should be located in existing or replacement buildings, particularly where they are located outside existing settlements.

Policy EC10 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.

Policy EC12 (b) states that local planning authorities should support small scale economic development where it provides the most sustainable option in villages, or other locations, that are remote from local service centres, recognising that a site may be an acceptable location for development even though it may not be readily accessible by public transport.

Planning Policy Statement (PPS7) 7: 'Sustainable Development in Rural Areas', sets out the Government's position on development in rural areas. Paragraph 5 states that planning authorities should support a wide range of economic activity in rural areas. This guidance recognises the pressures facing the rural economy and seeks to encourage sustainable rural diversification without harming the character of the countryside. It goes on to say that all development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.

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 1 seeks to secure the delivery of sustainable development.

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

Policy 18 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.

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

Local Development Framework Core Strategy 2009

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

Policy 23: 'Tourism Development' refers to the encouragement of holiday accommodation in suitable locations where, inter alia, the development add to the Borough's local distinctiveness and compliments tourism themes and adds to the economic wellbeing of the area.

Hinckley and Bosworth Local Plan 2001

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

Policy IMP1: 'Contributions Towards the Provision of Infrastructure and Facilities' requires contributions towards the provision of infrastructure and facilities to serve the development commensurate with the scale and nature of the development proposed.

Policy BE1: 'Design and Siting of Development' seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features; have regard to the safety and security of both individuals and property; incorporate design features which reduce energy consumption; incorporate landscaping to a high standard; have regard to the needs of wheelchair users and other people with disabilities; ensure adequate highway visibility for road users and adequate provision for parking for residents

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

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 either: important to the local economy and cannot be provided within or adjacent to an existing settlement or is an extension of an existing building; and only where it does not have an adverse effect on the appearance or character of the landscape; is in keeping with the scale and character of the existing buildings and general surroundings; will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping.

Policy NE10: 'Local Landscape Improvement Areas' states that within local landscape improvement areas, any development should include landscaping proposals either within or at the boundary of the development site.

Policy REC21: 'Tourist Accommodation' states that, in the countryside, planning permission will only be granted for accommodation where it can be demonstrated that such accommodation makes use of existing property, or can be satisfactory integrated within the scale of existing buildings with which it is associated.

Policy T5: 'Highway Design and Vehicle Parking Standards' refers to the application of appropriate standards for highway design and parking targets for new developments unless a different level of provision can be justified.

Supplementary Planning Guidance/Documents

None relevant.

Other material policy guidance

The guidance document Greater Flexibility for Planning Permissions published in November 2009 states that in determining applications to extend the time limit for implementing planning permissions:

"Local Planning Authorities should take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application for extension will by definition have been judged to be acceptable in principle at an earlier date".

The guidance continues:

"Local Planning Authorities should, in making their decisions, focus their attention on development plan policies and other material considerations which may have changed significantly since the original grant of permission".

Appraisal:-

The main consideration with regards to this application is whether there have been any material changes in planning policy since the previous application that would affect the determination of the application. There are additional considerations such as if the originally imposed conditions are still required and whether additional conditions or financial contributions should be applied.

Changes to Policy

The original scheme was granted on the 12 March 2008, therefore it was considered in light of the current adopted Local Plan Policies.

In 2008 the scheme would have also been considered against the Leicester, Leicestershire and Rutland Structure Plan which has since been superseded by the Regional Spatial Strategy for the East Midlands. While this high level policy has changed it is considered that the scheme would also be in accordance with the broad policies of the RSS which still seek to direct new development to Brownfield land. Therefore while the development plan has changed since the original decision was reached it does not lead to a different conclusion on the acceptability of the application.

The other consideration is therefore whether any material consideration is now applicable that would not have been considered in 2008.

The Local Development Framework Core Strategy was adopted in 2009 and of relevance to the scheme is Spatial Objective 1 and Policy 23. Both The objective and policy identify the importance of strengthening and diversifying the economic wellbeing of the area and do not raise issues that would now imply that the development would be unacceptable.

Central Government policy which was taken into consideration at the time of the application was PPS7. Paragraph 35 of PPS7 stated that Local Authorities should 'support the provision of general tourist and visitor facilities in appropriate locations where identified needs are not met by the existing facilities in rural services centres. Where new or additional facilities are required, these should normally be provided in, or close to, service centres or villages.' Since 2008 National Planning Policy Statements have been issued on a number of topics including PPS4: Planning for Sustainable Economic Growth (2009). Paragraph 35 of PPS7 was cancelled following the publication of PPS4 on 29 December 2009.

It is considered that whilst PPS4 sets out new broad national planning policies that would be applicable, it does not raise issues that would now imply that the development would be unacceptable.

Therefore it is concluded that the development plan and other material considerations have not changed in a manner that would now lead to the application being refused.

Changes to Conditions

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

The applicant has requested that the implementation period for the permission, if granted, be extended to 5 years in line with the encouragement given to local planning authorities by the government for a degree of latitude and discretion to be applied to permissions in the current economic conditions. In view of this and the benefit that the hotel provides to the leisure, tourism and conference industry within the locality it is considered that the request is not unreasonable and still confers a similar level of control when compared with a three year timescale.

In addition to the time condition attached to the original planning permission, Condition 6 of the previous permission required that no part of the development shall be occupied until details of a Green Commuter Plan were first submitted to and agreed in writing by the Local Planning Authority. During the course of this application the Highways Agency has been

consulted and has no objection to the proposal and do not request that a planning condition be imposed. As such, it is not considered necessary to carry forward the Green Commuter Plan condition to this permission.

Severn Trent Water raise no objection to the proposal but request that a condition in respect of drainage details to be submitted. Historically the development control process has sought to control the design of drainage systems, however in more recent years further control is now delivered through the Building Regulations and by Severn Trent Water (as the service provider) and the drainage scheme that has been approved by the planning authority is usually subject to change. In line with recent appeal decisions and Planning Inspector opinion, 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.

It is considered that the other remaining conditions and their reasoning are valid and necessary and as such should be carried forward to this permission.

Financial Contributions

Since the determination of the previous application the Community Infrastructure Levy Regulations (CIL) 2010 has been brought in on 6 April 2010. In addition, 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.

It is not considered that the scheme requires a contribution towards the provision of necessary on-site and off site infrastructure and facilities to serve the development as it is considered that the requirements of Planning Obligations: necessary, directly related to the proposed development; fairly and reasonably related in scale and kind to the development proposed would not be satisfied.

Conclusion

The development plan and other material considerations have not changed in a manner that would now lead to a different conclusion on the acceptability of the application. It is considered that all other remaining conditions are considered necessary with the exception of the Green Commuter Plan and 3 year time period. It is considered that the extension of the scheme for a further 5 year period is acceptable subject to the imposition of the previous planning conditions, where applicable.

RECOMMENDATION:- Permit subject to no significant material objections being received prior to the expiry of the consultation period on 20 January 2011 and the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development by virtue of the previous application and the changes in policy since the last permission would not result in a different decision being reached and therefore would be in accordance with the development plan.

Hinckley & Bosworth Local Plan (2001):- IMP1, BE1, NE5, NE10. REC21, T5.

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

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.
- 2 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed extensions and alterations shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 3 Before the extensions and alterations hereby permitted are first brought into use, the additional car parking spaces shown on plan No. 788/02 shall be provided, surfaced and marked out in accordance with the submitted details and shall thereafter permanently remain available for car parking unless otherwise agreed in writing by the Local Planning Authority.
- 4 Before any development hereby permitted is commenced on site a landscaping scheme shall be submitted to and approved by the Local Planning Authority. This scheme shall indicate the plant species, size and numbers and their disposition throughout the site.
- 5 The approved landscaping scheme shall be carried out during the first appropriate planting season following the date when the proposed extension is first ready for use. The scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs that 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.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 3 To ensure that adequate off-street car parking facilities are available to serve the premises to accord with Policies BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.
- 4 To enhance the appearance of the development to accord with Policies NE5 and NE10 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with Policies NE5 and NE10 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

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

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

Contact Officer:- Ebony Mattley Ext 5691

Item: 07

Reference: 10/00980/FUL

Applicant: Mr Frank Downes

Location: 9 Spa Lane Hinckley

Proposal: ERECTION OF FIVE DWELLINGS.

Target Date: 3 February 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as five objections have been received and the consultation period has not yet expired.

Application Proposal

Full planning permission is sought for the erection of five two storey detached dwellings each of four bed configuration. The development proposes both integral and detached garaging with parking for three vehicles within the curtilage of each dwelling. Gardens are proposed to the rear of each dwelling. The overall ridge heights range from 7.4 to 8.1 metres with the design of each dwelling differing with projecting gables, dormer windows, porches and mock tudor architectural features. The development will be served by an existing access to Spa Lane which also serves No. 9 Spa Lane.

The Site and Surrounding Area

The site covering an area of 0.22 hectares is currently the garden area serving Bala House, College Lane located to the east. The site is bound to all sides by residential curtilages: the site is adjoined to the north by residential dwellings on Bowling Green Road, to the east by residential dwellings on College Lane, to the south and west by residential dwellings on London Road and Spa Lane, respectively. The site is located within the settlement boundary of Hinckley as defined on the Adopted Hinckley and Bosworth Local Plan proposals map (2001).

Technical Documents submitted with application

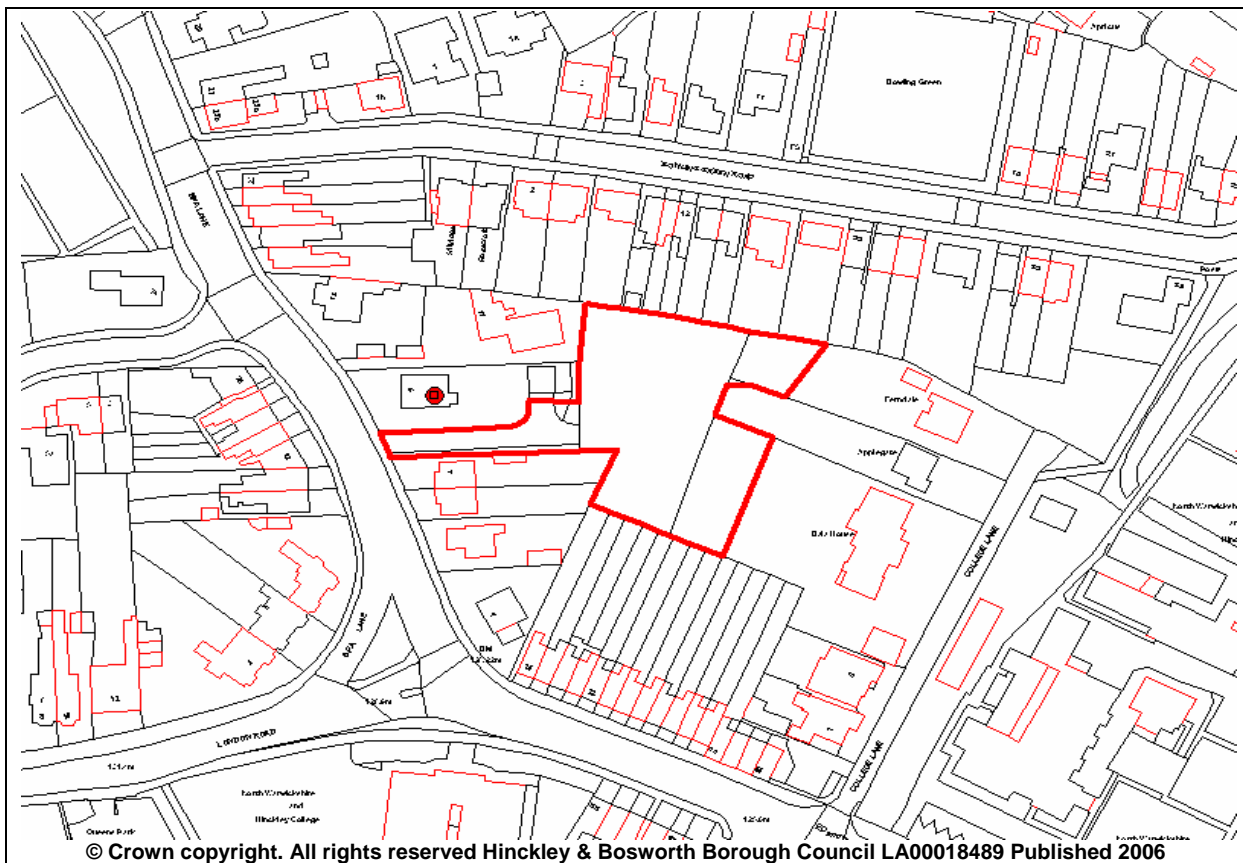
The application is accompanied by a Design and Access Statement which states that the design and scheme was informed and influenced by the existing built form and pattern of development thus creating a fully integrated design solution which will not detrimentally affect the amenities of neighbouring properties or compromise highway safety.

Following concerns raised in respect of the impact upon the scheme upon 2 no. willow trees overhanging the east boundary, officer have requested that the applicant submit a Tree Survey and Tree Protection Plan. There has been no such agreement that these works will be submitted.

History:-

71/5407 (Outline)	Erection of 4 Dwellings and Formation of Access	Permitted	14.07.72
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This Outline planning permission was granted for 4 dwellings, one fronting Spa Lane which became No. 9 Spa Lane with a further three dwellings on the land to the rear. However, no reserved matters consent was granted.



Consultations:-

No objection has been received from:-

Head of Community Services (Pollution)
Environment Agency.

No objection subject to conditions have been received from:-

Director of Environment and Transport (Highways)
Head of Community Services (Land Drainage)
Head of Business Development and Street Scene Services (Waste Minimisation).

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

- a) Loss of privacy, overlooking and overbearing impacts
- b) overshadowing and loss of light
- c) too large and an eye sore
- d) noise and disruption
- e) loss of views
- f) de-valued property prices
- g) environmental effect on wildlife
- h) character, privacy and quality of the neighbourhood
- i) together with development of college site, there would be overdevelopment in the area
- j) contrary to Local Plan Policy and Regional Plan in terms of development on Greenfield land
- k) "garden grabbing" and contrary to changes to government policy in June 2010
- l) contrary to LDF in terms of housing need of small to medium houses
- m) insufficient width to access drive
- n) proximity to junction and highway risk
- o) increase in level of traffic
- p) removal of trees

The consultation period remains open at the time of writing and closes on 26 January 2011. 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.

Paragraph 41 states that at least 60 per cent of new housing should be provided on previously developed land and that a key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed.

Paragraph 48 states that Local Planning Authorities should facilitate good design by identifying the distinctive features that define the character of a particular local area.

Paragraph 49 states that careful attention to design is particularly important where the chosen local strategy involves intensification of the existing urban fabric. More intensive development is not always appropriate.

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.

PPS3 was updated in June 2010 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 in order 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.

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

Policy 19: 'Green Space and Play Provision' seeks to ensure that all residents have access to sufficient, high quality and accessible green spaces and play areas.

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

Adopted Hinckley and Bosworth Local Plan (2001)

Policy IMP1: 'Contributions Towards the Provision of Infrastructure and Facilities' 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: 'Residential Proposals on Unallocated Sites' 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: 'Design and Siting of Development' seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Development should ensure adequate highway visibility for road users and adequate

provision for on and off street parking for residents and visitors together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

Policy T5: 'Highway Design and Vehicle Parking Standards' 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' 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.

Appraisal:-

The main considerations in the determination of this application are the principle of development, layout, access and highway issues and other matters.

The Principle of Development

The site is located within the settlement boundary of Hinckley, as defined on the Adopted Hinckley and Bosworth Local Plan proposals map and therefore there is a presumption in favour of development subject to all other planning matters being appropriately addressed.

The application site is considered to 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.

The relevant plan policies include PPS3 which states that 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 should be considered.

This approach 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 intentions of PPS3 and RES5 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.

Siting and Layout

The consideration of the impact on character is considered through the requirements of PPS3, RES5 and BE1.

Developments on Greenfield land need to have consideration of the schemes impact upon the character and appearance of the area. Given the density and two storey proportions proposed it is considered that there would be glimpses of the development through the existing trees and gaps in the streetscene which would detrimentally reduce the present open character of the backland area.

The pattern and grain of the development in the immediate locality is development of residential dwellings which form the frontage development. The area immediately adjoining to the south is characterised by terraced dwellings forming the frontage development and the area to the north of the site is characterised by both detached and semi detached dwellings which form the frontage development. In addition, the area to the east is characterised by large detached dwellings in large plots, which again form the frontage of College Lane, with the area to the east being largely characterised by detached dwellings forming the frontage development (with the exception of No. 11 Spa Lane).

As such, it is considered that the defining character in the locality is development which forms frontage development. The proposed dwellings constitute backland development, which has no frontage onto the street at any point. Therefore the scheme would result in development that is clearly out of keeping with the character of the area.

In addition, the density, layout, scale and footprint of the five dwellings would result in a scheme which overdevelops the site. Dwellings along Spa Lane, Bowling Green Road and London Road occupy significantly smaller footprints in comparison to the dwellings proposed. Therefore the scheme would result in development that is clearly out of keeping with the character of the area. It is considered that even if the dwellings were reduced in size there would still be an issue in terms of the "backland" nature of this proposal.

Accumulatively, the proposed dwellings by virtue of their backland location on a Greenfield site, number, layout, scale and footprint will result in a pattern of development that fails to respect the frontage and open character of the surrounding area and overdevelops the site which would therefore be harmful to the character of the locality.

Accordingly, the development would be 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, Council's SPG on New Residential Development and PPS3.

Access and Highway Issues

The Director of Environment and Transport (Highways) states that both the Design and Access Statement and submitted plans show that the access will be widened to 5 metres

which is more than sufficient to accommodate two-way flow and that visibility onto Spa Lane can be provided to the appropriate standard.

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

Other Matters

Impact upon Trees

Concerns have been raised in respect of the impact of the scheme upon 2 no. important Willow trees overhanging the east boundary. It was considered that the small garden areas to the rear of plot no's 3 and 5 will be seriously compromised by the Willow trees. It is considered that the Willow trees contribute to the character and quality of the local environment and as such it was suggested that a Tree Survey and Tree Protection Plan should be submitted to determine the root protection areas required. The applicant has confirmed that a Tree Survey will be submitted in due course.

Hinckley and Bosworth's Local plan policy BE1 states that development should avoid the loss of vegetation and features which contribute to the quality of the local environment. Until such a time as the Tree Survey is submitted and reviewed, and given the policy requirements within this policy, the application should be refused on the basis that the applicant has failed to demonstrate that the existing trees will not be adversely effected.

Sustainability

In line with Policy 24 of the Adopted Core Strategy, the 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. There is no information submitted with the application that demonstrates that this is the case or has been considered.

The Head of Business Development and Street Scene Services (Waste Minimisation) states that it is important to allow space for placement of containers at the adopted highway and as such recommends a condition to secure a scheme for the provision for waste and recycling storage across the site.

Play and Open Space Contributions

In accordance with Policies 1MP1 and REC3 of the adopted Local Plan and the adopted Supplementary Planning Document: Play and Open space, a developer contribution towards the pressure the development will place upon Queens Park local open space will be required should the development be acceptable. In the most recent Play and Open Space Audit Queens Park achieved a quality score of 32.4% and there is a deficit of both equipped open space (-1.20) and outdoor sports (-12.50) in Hinckley. As the scheme results in a net gain of 5 dwellings a total figure of £6254.00 is sought (£4089.00 for the provision and £2165.00 for the maintenance). The application was accompanied by a draft heads of terms which sought to secure and deliver this 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. In principle, the immediate area is characterised by frontage development and the proposal constitutes backland development that would result in development that is clearly out of keeping with the

character of the area. In addition, by the virtue of its Greenfield status the development would result in a scheme that would detrimentally reduce the present open character of the backland area. Furthermore, the proposed layout of the 5 no. dwellings on land previously associated with the residential use of Bala House, College Lane 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 consequently makes 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 (5.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:

- 1 In the opinion of the Local Planning Authority, the proposal constitutes an uncharacteristic form of development on Greenfield land by virtue of the backland positioning of the dwellings. The proposal fails to respect both the established open character and frontage development of the surrounding area and would therefore not complement or enhance the surrounding area. The development would therefore 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 option of the Local Planning Authority, the proposal constitutes a scheme which overdevelops the site by virtue of the density, layout, footprint and scale. The proposal fails to respect the established character of the surrounding area and would therefore not complement or enhance the surrounding area. The development would therefore 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.
- 3 In the opinion of the Local Planning Authority the applicant has failed to demonstrate that the proposed development would not detrimentally affect the trees and vegetation within the site, contrary to Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 4 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).
- 5 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: 08

Reference: 10/00992/CONDIT

Applicant: Mr Jeffery Poonawala

Location: Unit E Maple Drive Hinckley

Proposal: VARIATION OF CONDITION NO.2 OF PLANNING PERMISSION 10/00695/FUL TO AMEND THE SIZE OF THE BUILDING

Target Date: 15 February 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is an application which raises local or wider controversial issues.

Application Proposal

Members may recall that planning permission (ref: 10/00695/FUL) was approved for the erection of a single storey “drive-through” restaurant and takeaway with ancillary vehicle access and circulation routes, parking and hard and soft landscaping at committee in November 2010. This is an application for the variation of condition 2 attached to planning permission 10/00695/FUL, to amend the size of the building.

This application seeks to substitute the approved plans to allow the following alterations to the scheme:-

- a) Reduction in the footprint by 3.4 metres in length, by 1 metre in width. The original scheme measured 27.2 by 12 metres whilst this application proposes the building to measure 23.8 by 11 metres. This has reduced the mains trading area from 229.5 metres squared to 185.2 metres squared.

Adjustments in line with reduced size include:-

- b) 2 sets of two pain full length windows in lieu of 1 set of three pain full length windows and 1 set of three insulated panels to lower part and glazing to upper part in the northern elevation;
- c) Re-positioning of the KFC lettering to an adjacent panel on the northern elevation;
- d) 1 set of two pain full length windows in lieu of 1 set of three pain full length windows in the southern elevation;
- e) Re-positioning of the fire exit and additional insulated panel in lieu of a window panel in the southern elevation;
- f) 1 set of four pain full length windows and 1 set of two pain full length window in lieu of 1 set of three pain full length windows in the western elevation.

The Site and Surrounding Area

The site is to the north of Coventry Road and to the west of the Ashby Canal. It is roughly rectangular in shape and is 0.27 hectares in size. Beyond Coventry Road to the south and to the west of the site lies the wider residential areas. The Harrow Brook industrial estate is located to the north-west, with the area beyond the Ashby Canal being mixed use.

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

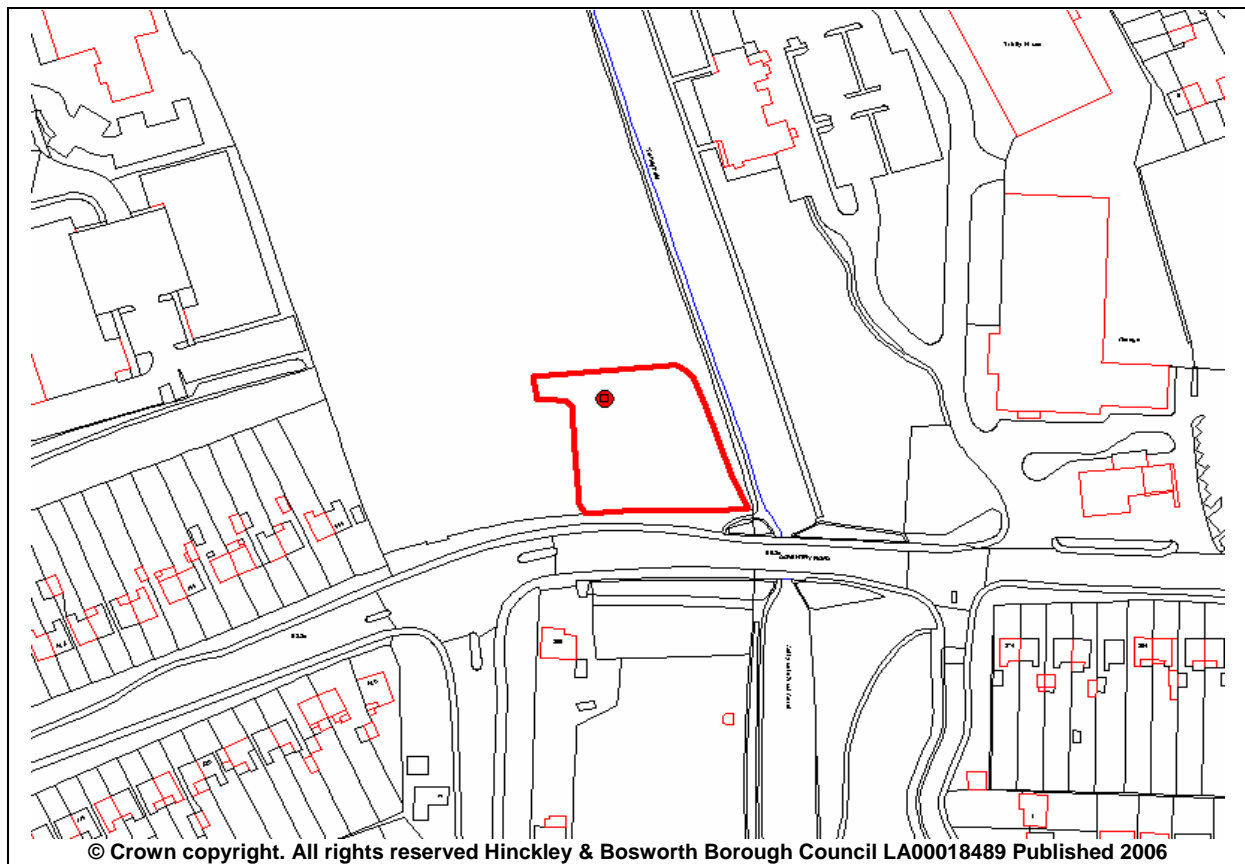
Technical Documents submitted with application

The application is accompanied by a Design and Access Statement which seeks to explain the design approach taken and deals with matters of materials, parking and landscaping along with a planning policy justification. It states that the scale, layout, design and materials have been carefully considered to reflect the context of the site.

The applicant has provided a further statement justifying the required changes. It states that the building would be more in keeping with other development on the Tungsten Park site and that the investment for the applicant would best be served with a smaller building as the reduction in the footprint would help lower the overall building costs and provide a better return per square metre.

History:-

10/00695/FUL	Erection of a single storey "drive through" A3/A5 restaurant, including details of parking, Hard landscaping, and external amenity area	Approved	09.11.10
07/01150/FUL	Mixed commercial development comprising B1, B2 and B8 Sui Generis uses	Approved	12.12.07
07/00529/FUL	Mixed commercial development Comprising B1, B2, B8 and Sui Generis uses	Refused	29.08.07
05/00615/FUL	Erection of 10 Commercial units	Permitted	11.08.05
03/00411/CONDIT	Variation of condition 3 of Application 99/00048/OUT to allow extension of time for submission of reserved matters	Permitted	09.06.03
99/00048/OUT	Industrial Development for B1, B2 and B8 uses	Allowed at appeal	09.05.00



Consultations:-

No objection has been received from:-

Environment Agency
The Inland Waterways Association
Ashby Canal Association
Directorate of Chief Executive (Ecology)
Head of Community Services (Land Drainage).

No objection subject to conditions has been received from:-

Severn Trent Water
The Director of Environment and Transport (Highways).

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

Site notice and Press notice were displayed and neighbours notified.

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

- a) Inappropriate within a residential area
- b) exacerbates traffic
- c) highway safety
- d) noise
- e) reduction in property value

- f) environmental risks
- g) pollution to canal
- h) impact upon wildlife
- i) litter
- j) loss of employment land
- k) inappropriate opening hours
- l) will lead to demands for excessive signage
- m) Tungsten Park is for industrial units and not a retail park.
- n) low employment value
- o) no local need or support within a residential area
- p) the principle of the application should be re-considered.

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

Ramblers Association
British Waterways.

The consultation period remains open at the time of writing this report and closes on 1 February 2011. Any further consultation response received before the closing date will be reported and appraised as a late item.

Policy:-

National Planning Guidance

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

Planning Policy Statement 4 (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.

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

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 1 seeks to secure the delivery of sustainable development.

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

Policy 18 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 Planning Policy

Local Development Framework Core Strategy (2009)

None relevant.

Hinckley and Bosworth Local Plan (2001)

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

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

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

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

Appraisal:-

The principle of a drive through restaurant on this site has already been accepted scheme with the approval of the previous planning application (ref: 10/00695/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 Conservation Area and neighbouring residential properties.

Impact upon Design and Appearance and Conservation Area

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

This application proposes to reduce the overall footprint of the building, whilst the overall height of the building remains un-altered. It is not considered that the proposed reduction in the footprint of the building would give rise to any additional significant material impacts over and above those appraised and approved within the previous application.

The alteration to the mix of cladding panels and glazed sections to the main building are not considered to have any significant material impacts on the overall appearance of the site or the Conservation Area and are therefore considered acceptable in visual terms.

In summary, the proposed minor changes do not result in any additional adverse impacts upon the character of the building or the overall character and appearance of the site or Conservation Area. It is considered that the character remains the same as the approved scheme and is in accordance with Policy BE1 of the Local Plan.

Impact on Neighbours

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

In the earlier grant of planning approval the scheme was considered in light of impacts upon neighbours. The issues of noise and odour pollution, hours of use and issues of vehicle movements upon residential amenity were addressed.

The decrease in the size of the main building does not result in any impacts upon residential amenity, over and above that of the approved scheme.

In summary, as result of the separation distances involved, the proposed decrease in the scale and alterations to the appearance of the building, it is considered that there would not be any significant additional adverse impacts on the visual or physical amenities of the occupiers of neighbouring dwellings. As such, the proposal is considered to accord with Policy BE1 of the Local Plan.

Other Matters

In response to some of the issues raised with respect of highway issues and impact upon wildlife the Directorate of Chief Executive (Ecology) confirms that there is no known ecological interest within the site and the issues of water vowel habitat were fully explored in the earlier applications. In addition, the Director of Environment and Transport (Highways) states that in view of the planning history and the fact that this application seeks to reduce the size of the approved building, the proposals are considered acceptable from a highway point of view and requested that the previous conditions are imposed.

The comments raised by neighbouring dwellings are objections to the scheme in principle and do not directly relate to the reduction in the size of the building and proposed external alterations.

Conclusion

The principle of a drive through restaurant on the site has already been established in a previous planning permission (ref: 10/00695/FUL). Overall, by reason of the scale and design of the proposed changes it is considered that there would not be any significant additional detrimental impacts upon the character of the building or the overall character and appearance of the site, the Conservation Area or residential amenity. Accordingly it is recommended that planning permission be granted, subject to the imposition of the previous planning conditions.

RECOMMENDATION:- Permit subject to no significant material objections being received prior to the expiry of the consultation period on 1 February 2011 and the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies:

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it considered that by reason of the minor proposed changes including the decrease in the footprint of the building that there would not be any additional significant material impacts upon the character of the building, appearance of the site, the Conservation Area or residential amenity.

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

- 1 This permission relates to the variation of Condition 2 of planning permission reference 110/00695/FUL [the previous application] dated 9 November 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 10/00992/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: Drawing No's: Site Plan KFC/2220/PSL1 Scheme A Rev. F; Layout Plan KFC/2220/PSL3 Rev. C and Elevations KFC/2220/PSL2 Rev. E received by the Local Planning Authority on 21 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 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

Contact Officer:- Ebony Mattley Ext 5691

Item: 09

Reference: 10/01011/DEEM

Applicant: Mr Paul Scragg

Location: Richmond Park Richmond Road Hinckley

Proposal: ALTERATIONS TO GROUND LEVELS AND CREATION OF DRAINAGE PROVISION

Target Date: 24 February 2011

Introduction:-

This application is reported to Planning Committee, in accordance with the Scheme of Delegation, as it is a deemed application made under Regulation 3 of the Town and Country Planning General Regulations (1992) by the Borough Council.

Application Proposal

This is a deemed application for the installation of a drainage scheme and earthworks at Richmond Park, Hinckley. A previous application for a smaller scheme was approved by the Planning Committee on 22 December 2009.

The Site and Surroundings

The application site measures 2.4 hectares and forms part of the larger Richmond Park.

Richmond Park is a public open space located in Hinckley. It is currently provided with a number of football pitches, there is also a cricket square and pitch which is used during the summer months. A play area and multi use games area is located adjacent to the car park at the southern end of the park. The Hinckley Club for Young People building is located in the

south eastern part of the park. The park is located next to residential housing along the eastern and southern boundaries, with Richmond Park Primary School and its associated grounds located along the western edge. An industrial estate and supermarket are located to the northwest, north and north east of the site. Footpath T60 runs along the western and northern edges of the application site, however this will remain unaffected by the proposals.

Technical Documents submitted with the application

The application states that the proposals will improve the drainage to the football pitches in line with the Borough Council's Green Space Strategy and Football Association/Football Foundations guidelines. The materials proposed are perforated drainage pipes covered with appropriate aggregates, on completion of the works the drainage channels will be covered with top soil and the site will be restored to its previous condition. The regrading works will consist of levels being built up with top soil and seeded with an amenity grass seed.

The application provides full engineering details including existing and proposed levels, sections and drainage plans.

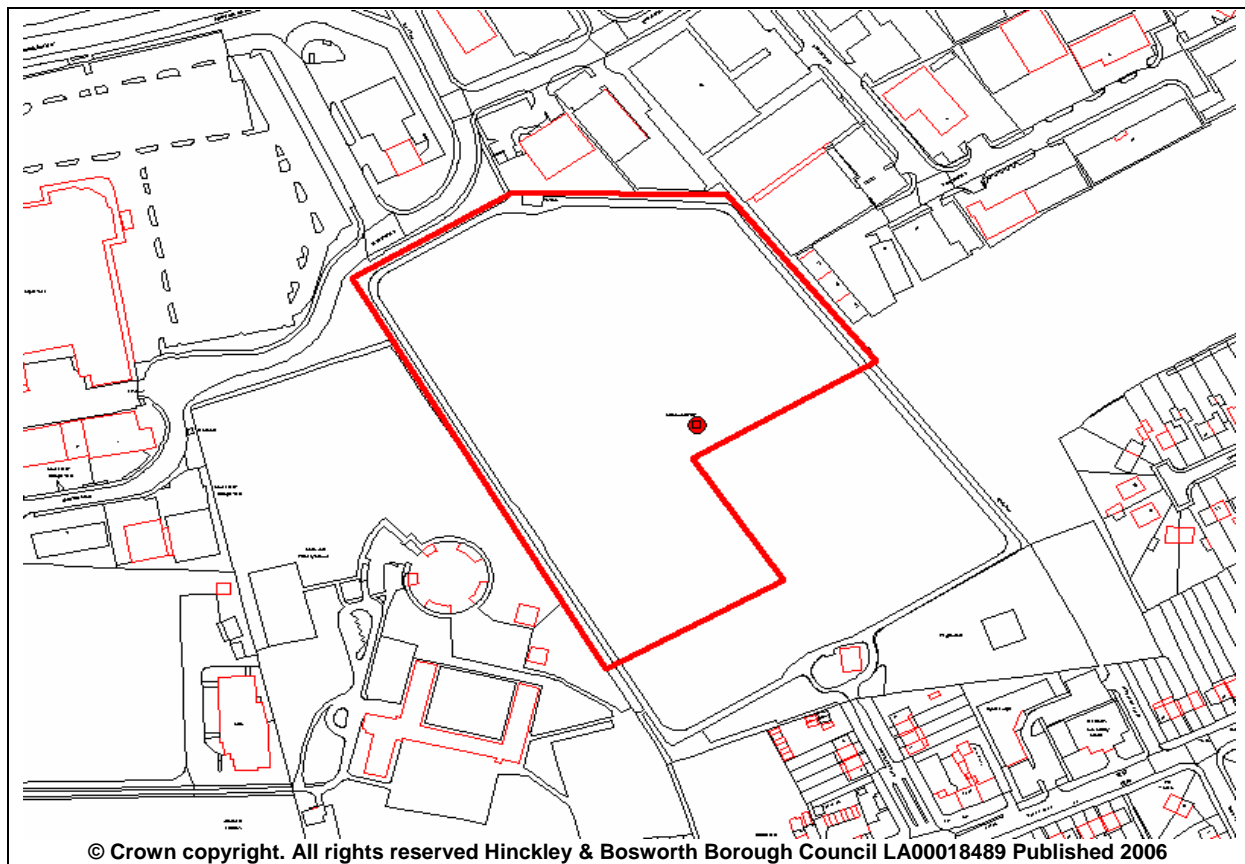
The application is accompanied by a detailed Design and Access Statement which states that a number of sports clubs use the facilities on offer at Richmond Park, although this usage is restricted by weather conditions. During periods of rainfall the playing pitches are prone to water-logging making them unsuitable for use. Furthermore, the existing poor drainage limits the quality of the pitches, which also impacts upon the capacity to deliver high quality sporting opportunities. The Hinckley Club for Young People building is attracting a large number of users to the site and interest from the Football Association on improving the quality of the adjacent football pitches to match this high quality facility has encouraged the Borough Council to apply for money from the Football Foundation towards drainage improvements. The scheme will have positive community benefits particularly for local sports clubs and community members who play sport at Richmond Park and will provide excellent opportunities to work together with the Hinckley Club for Young People to encourage a range of different age groups with the provision of junior pitches up to senior sized pitches, which will allow for a progression of use through the different age groups.

The new drainage and re-profiling of the gradient will extend usage of this public open space throughout the year and will help to improve the quality of the grass playing surface by ensuring that water is efficiently drained out of the playing area. At present, the site is prone to water-logging, particularly within the north-west corner of the site. By installing new drainage this will help to encourage more sports clubs and more members of the local community to use the site for participating in sport.

Further information in the form of two complaints from local football clubs unable to use water-logged pitches at Richmond Park have also been submitted with the application.

History:-

09/00811/DEEM	Alterations to ground levels and creation of drainage provision	Approved	04.01.10
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Consultations:-

No objections received from:-

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

No objection subject to condition received from:-

The Environment Agency
The Head of Community Services (Pollution Control).

Site notice and Press notice were displayed and neighbours notified.

One letter has been received raising concern regarding access to premises during the works taking place.

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

Sports Council for the East Midlands
Leicestershire and Rutland Playing Fields Association
The Ramblers Association.

Policy:-

Central Government Guidance

Planning Policy Guidance Note 17 sets out the Government's commitment for the need for sport and recreation development and seeks to deliver rural renewal, social and community inclusion, health and well-being and promotes sustainable development. The PPG encourages development for sport and recreation in appropriate locations.

Planning Policy Statement 25: 'Development and Flood Risk' aims to ensure that flood risk is taken into account at all stages of the planning process and to reduce flood risk to and from new development through location, layout and design incorporating sustainable drainage systems (SUDS).

Local Development Framework Core Strategy 2009

No relevant policies.

Hinckley and Bosworth Local Plan 2001

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

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

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

Supplementary Planning Guidance/Documents

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

Appraisal:-

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

Principle of Development

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

Drainage

The drainage works will all be contained underground. The proposed drainage scheme is of a herring bone style, with a number of lateral drains at 8m spacings, linking to carrier drains which then lead to a soakaway trench along the northern perimeter of the playing field, the lowest side of the park, where they will discharge into a soakaway utilising a combination of imported clean stone and a permeable layer lower down within the sub-soil.

This soakaway is 1490 square metres in size which is almost double the size of the previous application as the scheme now incorporates a catchment area which is almost twice the size of the original proposal and now drains all of the pitches. It is stated that the soakaway will help to prevent surface water run off from the site, minimising impact on the surrounding area of the site. Furthermore, a high level overflow has also been included to act as a contingency for extremely intense rainfall periods (e.g. 100 year return period).

The matter has been examined by the Head of Community Services (Drainage) and no objection is raised to the design and methods of the scheme. On this basis the proposal conforms with Policy NE14 of the Adopted Local Plan.

Alterations to land levels

Re-profiling of the ground level is also included within the application. A topographical map is included as part of the submission and shows existing and proposed ground levels. Levelling is proposed to a maximum depth of 450mm at the north western end of the park and approximately 350mm maximum depth at the eastern side of the park. This will require the importation of approximately 1650 cubic metres of material which will come from the Hinckley Club for Young People project on the same site.

The Head of Community Services (Pollution Control) has requested a condition be imposed to ensure that if any additional materials to build up the levels are imported from outside of the site, they are certified to ensure that no contaminated materials are brought in, however, the importation of contaminated materials is dealt with by other legislation and therefore it is considered that a note to applicant is sufficient in this case.

Landscape

The drainage works proposed, once complete will not alter the appearance of the park. The proposed earthworks will have minimal visual impact upon the park as they will reduce the fall across the site to a maximum depth of 450mm at the north western end of the park and change the levels by a maximum of 350mm at the eastern side of the park. No trees will be lost through the works and the grass sports pitches will be replaced following the works.

Other Issues

The Director of Environment and Transport (Footpaths) has referred to definitive Public Footpath T60 which is routed around the western and northern boundaries of the park. He has commented that the route of the footpath does not appear to be affected by the proposals but gives advice to ensure that it is not affected during development. This can be included in the decision as a note to applicant.

One comment has been received enquiring about access to Tudor Road/St Francis Close whilst the works are undertaken. The applicant has confirmed that any works vehicles will access the site via Richmond Road through the site car park, and onto the area of the works which is the park area behind the Hinckley Club for Young People. There should not therefore be a large number of vehicle movements to and from site associated with the works once the machines are on site and the compound is set up. The works are likely to commence in May 2011 and should take no more than 3 months to complete.

Conclusion

This scheme proposes a package of improvement works to this well used and important green space in Hinckley. The works proposed will improve the potential usage and quality of

football pitch provision at Richmond Park and will not have any adverse impact on the character and appearance of the park once completed.

RECOMMENDATION:- That Committee agree to the development being carried out under Regulation 3 of the Town and Country Planning General Regulations 1992 and subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

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

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 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 received 29 December 2010. Drawings 150 R0, 151 R3, 152 R2 and 153 R0 received on 5 January 2011.
- 3 The development permitted by this planning permission shall only be carried out in accordance with the approved Surface Water Drainage Design as shown on Drawing No. 152 R2 and the following mitigation measures:
 - a) Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% for climate change critical rain storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
 - b) Provision of a minimum of 678 cubic metres of surface water run-off attenuation storage.

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 prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site, to accord with PPS25 : Development and Flood Risk and policy NE14 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The applicant will be responsible for ensuring that footpath T60 is not affected by any operations associated with the development, and that free access by the public is maintained at all times. In view of the close proximity of the proposed works to the footpath, particular attention should be given to ensuring that no materials are stored on the line of the right of way which are likely to restrict the width available to pedestrians. No additional structures either of a temporary or a permanent nature should be placed across the right of way, without the written consent of the Highway Authority having been obtained. If it is necessary for any works to be carried out within the confines of the footpath, the County Council's consent to these should be obtained before they are commenced. The applicant should contact the Rights of Way Inspector for the area, Mr. A. Perry, who is based at the Area Highways Office, Mountsorrel (Telephone No. 0116 305 0001). Any damage that may be caused to the surface of the footpath while the development is being carried out will be the responsibility of the applicant to repair at its own expense, to the satisfaction of the Highway Authority.
- 6 In the event that additional soil is required from an external source to build up the land levels, prior to any such material being brought onto the site, certification should be obtained confirming that the materials are not contaminated.

Contact Officer:- Louise Forman Ext 5682

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

Appeal by Flude Family Settlement 2004 against the refusal of outline planning permission (access only) for residential development (10/00661/OUT) at Land adjacent to Hinckley Golf Course, Leicester Road Hinckley

Appeals Determined

None since last report.

4. FINANCIAL IMPLICATIONS (CB)

Potential legal costs can be met from existing budgets.

5. LEGAL IMPLICATIONS (MR)

None

6. CORPORATE PLAN IMPLICATIONS

This document contributes to Strategic Aim 3 of the Corporate Plan

- Safer and Healthier Borough.

7. CONSULTATION

None

8. RISK IMPLICATIONS

None

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

None

10. CORPORATE IMPLICATIONS

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

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

Background papers: Appeal Decisions

Contact Officer: Kevin Roeton Graduate Planning Officer ext. 5919

PLANNING COMMITTEE - 1 FEBRUARY 2011

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: 21.01.11

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
		10/00843/FUL	WR	Mr & Miss E Cooper & K Wykes	287 Brookside Burbage Hinckley	<i>Awaiting Start Date</i>	
11/00001/PP	RW	10/00693/FUL	WR	Phillip Racheal 24 Went Road Birstall	8 Mill Lane Earl Shilton	Start Date Questionnaire 3rd Party Notification Statement of Case Final Comments	18.01.11 01.02.11 01.02.11 01.03.11 22.03.11
	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> Proof of Evidence (Due) Inquiry date	16.11.10 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> Inquiry Date	11.10.10 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	PI	Mr John Knapp	26/28 Britannia Road Burbage	<i>Start Date</i> Proof of Evidence (Due) Public Inquiry	15.11.10 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 21 January 2011

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