

Date: 21 February 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 MARCH 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 MARCH 2011

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 1 February 2011, attached marked 'P50'.

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 'P51' (pages 1 – 111).

RESOLVED

8. APPEALS LODGED AND DETERMINED

Report of the Deputy Chief Executive (Community Direction) attached marked 'P52' (pages 112 – 113).

RESOLVED

9. APPEALS PROGRESS

Report of the Deputy Chief Executive (Community Direction) attached marked 'P53' (pages 114 – 116).

10. GROBY AND HOLLYCROFT CONSERVATION AREA STATEMENTS AND MANAGEMENT PLANS

Report of the Deputy Chief Executive (Community Direction) attached marked 'P54' (pages 117 - 126).

Further appendices to this report are available in the Members' Room and on the Council's website.

RESOLVED 11. 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

1 FEBRUARY 2011 AT 6.34 PM

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

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

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

435 **APOLOGIES AND SUBSTITUTIONS**

Apologies for absence were submitted on behalf of Mrs A Hall, Mr CG Joyce and Mr K Morrell with the substitution of Mr Cartwright for Mr Morrell authorised in accordance with Council Procedure Rule 4.3

436 **MINUTES (P46)**

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

RESOLVED – the minutes of the meeting held on 5 January 2011 be confirmed and signed by the Chairman.

437 **DECLARATIONS OF INTEREST**

No interests were declared at this stage.

438 **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 14 December 2010 and 5 January 2011:

- (i) 10/00743/OUT (14 December 2010) – it was reported that the decision had been issued on 13 January 2011.
- (ii) 10/00847/FUL (5 January 2011) – it was reported that the decision had been issued on 25 January;
- (iii) 10/00920/FUL (5 January) – it was reported that this application would come back to committee on 1 March 2011.

439 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P47)

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) 10/00980/FUL – Erection of five dwellings, 9 Spa Lane, Hinckley – Mr Frank Downes

It was reported that this item would be deferred to the next meeting.

- (b) 10/00901/EXT – Extension of time for the implementation of existing planning permission ref 07/01477/COU, Groby Lodge Farm, Markfield Road, Groby – Groby Lodge Estate Partnership

Attention was drawn to the amended recommendation in the late items. On the motion of Mr Crooks, seconded by Mrs Aldridge, it was

RESOLVED – subject to satisfactory resolution of the outstanding ecology issues, the Deputy Chief Executive (Community Direction) be granted delegated powers to issue planning permission subject to the conditions contained in the officer's report.

Mr Gould arrived at 6.43pm.

- (c) 10/00970/FUL – Change of use of Land to gypsy site for one caravan, Land adjacent Lodge Farm, Wood Road, Nailstone – Ms J Squires

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

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

- (d) 10/00962/EXT – Extension of time application for planning permission 07/01449/FUL for alterations to hotel to provide sixty additional guest bedrooms and associated car parking, Hinckley Island Hotel, Watling Street, Burbage – Mr Mike Jourdain

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

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

- (e) 10/00851/EXT – 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), Nailstone Colliery, Wood Road, Nailstone – SWIP Limited

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

RESOLVED – 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 contained in the officer's report. Failure to complete the agreement by 15 February 2011 might result in the application being refused.

- (f) 10/00797/EXT – Extension of time for extant planning permission 07/01430/FUL for a proposed industrial building and demolition of existing, Alexandra Stone Co Ltd, Desford Lane, Ratby – Alexandra Stone Company Ltd

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

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

- (g) 10/00883/FUL – Demolition of existing building and erection of dwellings with associated parking and landscaping, AO Henton Engineering Co Ltd, Cotes Road, Burbage – Mr Haydn Evans

Mr Crooks left at 7.40pm and returned at 7.42pm.

It was highlighted that the late items recommended removal of condition 13.

Mr Hall moved that the application be refused due to the houses not meeting Code Level 3 of the Code for Sustainable Homes and the lack of response to the issues raised with regard to the Village Design Statement.

In the absence of a seconder, the motion was not put to the vote.

On the motion of Mr Boothby, seconded by Mr Sutton, 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 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 contained in the officer's report. Failure to complete the agreement by 14 February 2011 might result in the application being refused.

- (h) 10/00992/CONDIT – Variation of condition no.2 of planning permission 10/00695/FUL to amend the size of the building, Unit E, Maple Drive, Hinckley – Mr Jeffery Poonawala

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

RESOLVED – the application be permitted subject to no significant material objections being received prior to the expiry of the consultation period on 1 February 2011 and the conditions contained in the officer's report and late items.

- (i) 10/01011/DEEM – Alterations to ground levels and creation of drainage provision, Richmond Park, Richmond Road, Hinckley – Mr Paul Scragg

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

RESOLVED – the development be carried out under Regulation 3 of the Town and Country Planning General Regulations 1992 and subject to the conditions contained in the officer's report.

440 APPEALS LODGED AND DETERMINED (P48)

A summary was submitted of appeals lodged and determined since the last meeting. Attention was drawn to the appeal lodged by the Fludes Family Settlement which might be called in by the Secretary of State. It was also highlighted that the appeal at 8 Mill Lane, Earl Shilton, had been omitted. It was moved by Mr Nichols, seconded by Mr Crooks and

RESOLVED – the report be noted.

441 APPEALS – PROGRESS (P49)

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

RESOLVED – the report be noted.

(The meeting closed at 7.52pm)

REPORT P51

PLANNING COMMITTEE

1 March 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 March 2011 - NUMERIC INDEX

| REF. NO. | APPLICANT | SITE | ITEM | PAGE |
|-----------------|--------------------------------------|--|-------------|-------------|
| 10/00518/OUT | Goodman Real Estate (UK) Ltd | Land Bounded By The Ashby Canal, Railway Line And Bridge Street, Incorporating The Former Johnsons Burbage | 01 | 02 |
| 10/00779/FUL | Printing & Packaging Co. Ltd | 5 Jacknell Road Hinckley | 02 | 37 |
| 10/00887/CONDIT | Mr Tony Wyatt | Mira Ltd Watling Street Lindley Higham On The Hill | 03 | 44 |
| 10/00920/FUL | Mr Matthew Gilliver | Land Congerstone Lane Barton In The Beans | 04 | 51 |
| 10/00951/COU | Mr David Luck | 36 Wood Street Earl Shilton | 05 | 61 |
| 10/00980/FUL | Mr Frank Downes | 9 Spa Lane Hinckley | 06 | 67 |
| 11/00015/FUL | Mr Dave Clayton | Caterpillar Uk Ltd Peckleton Lane Desford | 07 | 78 |
| 10/00923/FUL | Mr Jack Fargher | Castell Playing Field Marina Drive Groby | 08 | 87 |
| 11/00032/OUT | Brenmar Developments (Hinckley) Ltd. | Land Off Eastwoods Road Hinckley | 09 | 94 |
| 11/00049/FUL | Woodlands Nurseries | Woodlands Nurseries Ashby Road Stapleton | 10 | 104 |

Item: 01

Reference: 10/00518/OUT

Applicant: Goodman Real Estate (UK) Ltd

Location: Land Bounded By The Ashby Canal, Railway Line And Bridge Street, Incorporating The Former Johnsons Factory Burbage

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

Target Date: 8 November 2010

Introduction:-

The application was deferred from the Agenda for the Meeting of the Planning Committee on 2 November 2010 to allow outstanding highways and retail concerns to be addressed. In addition to addressing the highways matters a series of additional documents have been received. These include:-

- a) an amended highway mitigation package and green travel plan
- b) an amended Masterplan, omitting the car park to the Rugby Road Playing field
- c) a PPS4 Appraisal
- d) a Noise Assessment
- e) a scheme showing the indicative landscaping, bunding and mitigation methods proposed to the sites northern boundary.

The application is to be considered at Planning Committee in accordance with the Scheme of Delegation as it is a major development. Due to the nature and location of the application and the wording of the provisions of the Adopted Core Strategy the application has been advertised as a departure from the development plan and the application is currently subject to a further period of public consultation.

Application Proposal

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

Site and Surrounding Area

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

with the Severn Trent Waste Water Treatment Works beyond. The northern boundary is formed by the railway line with properties on Westfield Road beyond.

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

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

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

The application proposes a new gyratory roundabout on the Rugby Road to provide access to the site. To both sides of Rugby Road at this point the application proposes what it terms the 'Fulcrum', a mixed use area of housing, offices, local shops and services and associated parking. This would include the retention of the former Johnsons' power house and engine house as part of this mixed use area.

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

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

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

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

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

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

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

Technical Documents submitted with the application

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

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

Draft Heads of Terms are set out in the Planning Statement as a contribution in cash or kind towards health care facilities, delivery and management of the Sketchley Brook Corridor, contributions to education, affordable housing, other community infrastructure, a financial contribution towards a canal bridge and connective paths and a financial contribution towards improvements to the train station. Public art and the retention of the power house are also referenced. Transportation obligations are set out as improvement to existing junctions, public transport enhancement and a Green Travel Plan.

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

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

The amended Transport Assessment details an assessment of the existing and proposed trips from the site and the potential impact on 13 nearby junctions. Proposals for mitigating the impact on the A5 at Dodwells Roundabout and the Longshoot junction are set out and mitigation to the Hawley Road junction by way of signalisation. It also details the removal of the roundabout to the Rugby Road/Hawley Road junction and its replacement with a signalised junction and the upgrading of the existing traffic lights at the Hawley Road/Brookside junction, and the stopping up of Brookfield Road at its junction with Rugby Road and the reconnection of Brookfield Road through the site. Proposals also include

funding for bus service 74 to serve the site and provide a bus gate to allow a public transport only connection through the site.

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

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

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

The amended economic viability appraisal provides an open-book assessment of the development and concludes that the development is economically viable but not with the typical degree of developer contributions that may be requested. The appraisal suggests that the development can only afford to offer a total contribution that equates to 65% of the expected development contributions and affordable housing provision.

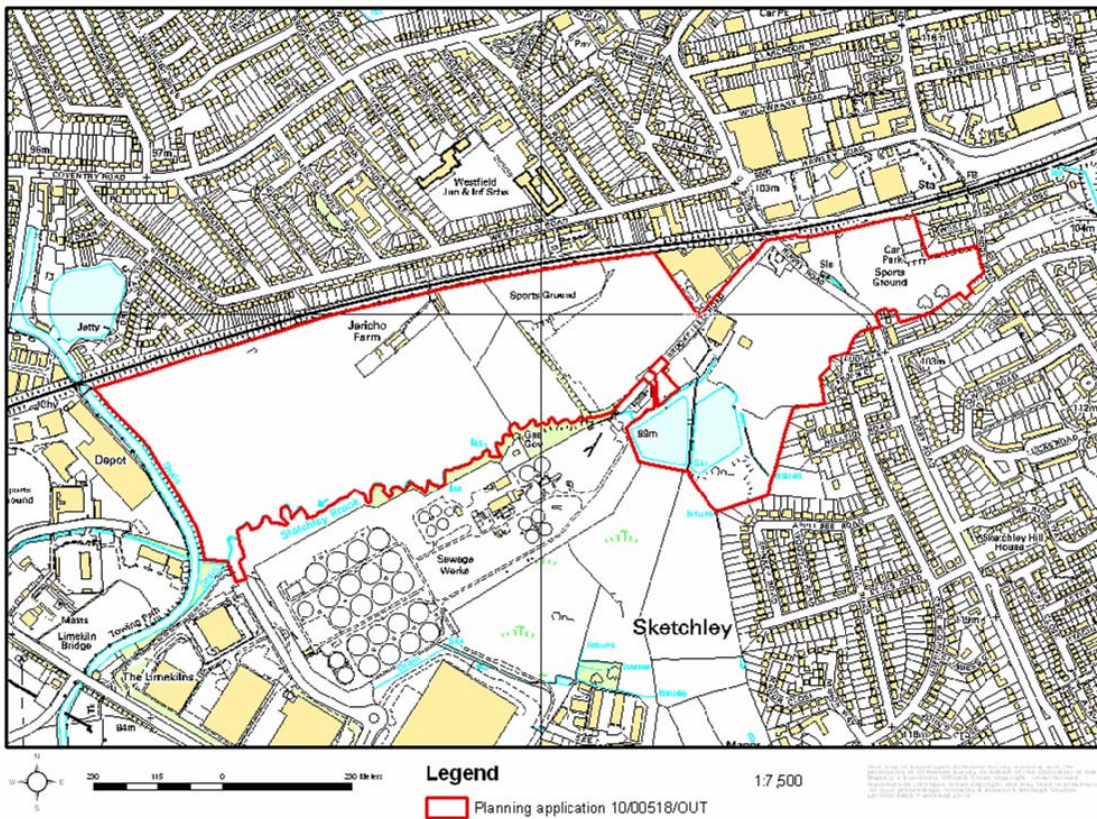
A study to address the schemes impact on economic retail growth inline with the requirements of Planning Policy Statement 4 concludes that the scheme will have no negative material impact on retail growth or viability of the existing and proposed economic activity of the area.

The noise assessments considers the effects of activities at Burgess AP on the proposed residential element of the development and concludes that some mitigation will be necessary in the form of the erection of 3 metre high acoustic fence and the orientation of habitable room windows away from the Burgess site.

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

History:-

Various minor applications concerning the previous use of the site.



Consultations:-

Due to the receipt of a significant degree of additional information and the decision to re-advertise the application as a departure from the development plan, the consultation period remains open at the time of writing and closes on 17 March 2011. The consultation responses detailed below are those received as part of the original application. Any further consultation response received following the reconsultation and before the closing date will be reported and appraised as a late item.

No objection has been received from:-

Rugby Borough Council
Sport England.

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

The Chief Executive, Leicestershire County Council (Archaeology) comment that the geophysical survey has indicated the potential for the presence of buried archaeological remains but their character and significance is uncertain. A phase of archaeological trial trenching was requested. In response to the interim report on the trial trenching, they comment that they do not see any further barrier to the granting of full planning permission subject to conditions.

The Director of Highways, Transportation and Waste Management (Highways) has issued revised observations which raise no objection subject to conditions and developer contributions. The response details the provision of an already drawn up scheme of further mitigation should the targets of the travel plan not be successful. This scheme relates to the Rugby Road/Westfield junction.

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

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

In response to the additional information submitted they have commented that they have no objections to the loss of one of the water bodies provided that a compensatory amount of open water habitat is provided. They also have no objection to the loss of scrub woodland provided that an equivalent amount is provided. They state that an appropriate location for the wetland would be close to the canal as shown on the Masterplan. They comment that the survey of water bodies within 500 metres can be controlled by condition and that no further surveys for crayfish are required. They request conditions to ensure the majority of the internal road is greater than 20 metres from the Brook.

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

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

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

The Leicestershire Constabulary Crime Reduction Officer recommends that the residential element applies for Secured by Design status. Comments regarding the security of dwellings in the indicative layout are raised. A request is also made for a contribution of £606 per dwelling and £7 per square metre for commercial property towards capital facilities and equipment such as new or supplementary buildings to house resources, or to facilitate community participation and engagement, vehicles and improvements to communication infrastructure.

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

The Homes and Communities Agency (HCA) has considered the applicants viability appraisal and confirms that it is a realistic and robust picture of the costs associated with the development.

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

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

They also comment that they support the proposed enhancements to the water body and the creation of balancing ponds designed to enhance biodiversity. They recommend that measures are put in place to prevent the accidental entrapment of badgers and an update survey for water voles prior to commencement of development. They support the woodland planting and enhancements to the Sketchley Brook corridor. They seek assurance that open space provision will meet their own standards and that connections to the wider countryside are made. They state they have no objections to the proposals on landscape grounds. Following the submission of additional information, their concerns regarding Great Crested Newts have been addressed and conditions are recommended. The internal surveys indicate that there are no bat roosts within the buildings and the objection on these grounds is removed.

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

culvert and that conditions are attached regarding a remediation strategy for contaminated land works.

Following the submission of further information which separates the site access from the Brook the Environment Agency have removed its objection subject to conditions.

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

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

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

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

Ashby Canal Association approve of the significant landscaped open space on the western boundary of the site which will screen the industrial buildings. The bridge crossing the canal is considered to be a good idea but the towpath where the bridge lands is too narrow and would obstruct the passage of the pathway. The towpath from the A5 to Dodwells Bridge should be upgraded to cycleway standard. Proposals for visitor moorings on the offside would be welcome from a boaters perspective.

Burbage Parish Council objects to the application stating that the amount of traffic from Rugby Road would create a bottle neck at the railway bridge. The comments suggest that the replacement of the Flude roundabout with traffic lights would alleviate the traffic flow problems and also suggest creating a second access through the railway line. Concern is also raised regarding the number of dwellings proposed and the capacity at nearby schools. In response to additional information, the Parish Council have commented that the Core Strategy requires land to be allocated for 236 houses and that they object to any increase above this.

Burbage Neighbourhood Watch raise concern regarding access to the industrial estate being open 24 hours allowing easy access and egress for criminals which is currently a problem in the Burbage area. A controlled access and automated number plate recognition could address this. With regards to the housing development they request that the developer take responsibility and contribute to crime prevention initiatives such as the successful Smart

water system. Comments are also raised regarding traffic, the need to cross Rugby Road to access the park, and the need for fencing, CCTV, lighting and adequate parking.

Burbage Matters comment that the number of houses seems to be high for the area. They raise concerns regarding excessive density, traffic congestion, loss of formal recreation space, recreational areas either across a road or close to water, loss of fishing facility, no separation between housing and industrial, maintenance of the green corridor, impact on existing facilities and infrastructure and security.

The Head of Community Services (Pollution) raises no objection. Details of foundation techniques for the residential properties, phasing of the scheme and acoustic fencing are requested. Conditions are recommended regarding noise, contaminated land, air quality and lighting.

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

The Head of Business, Contract and Street Scene Services (Greenspaces) comment that the removal of the weeping willow at the existing site entrance will be a significant loss and replacement planting with semi-mature trees is therefore particularly important in this area. Reference is made to protected trees on the banks of the lake which will require amendments to the Masterplan and protected trees along the Hillside Road / Garden Close boundary need further separation from development.

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

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

Councillor Bray has expressed his overall support for the scheme and particularly in so far as it will result in the comprehensive development of a derelict former factory site and will bring much needed housing to Burbage. He compliments the approach to the opening up of the Sketchley Brook, but remains concerned about traffic generation and the impact this will have and also the impact the development could have on the residents to the north of the site on Westfield Road.

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

Site notice and Press notice were displayed and neighbours notified.

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

- a) loss of views
- b) impact on existing traffic problems

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

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

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

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

Objections have been received on behalf of Tesco Stores Ltd on highways and procedural grounds. With regards to highways they state that the individual and cumulative impacts of the proposals on the existing highway network have not been assessed and that the minor mitigation measures proposed are insufficient. They consider current proposals taken together with those at the Bus Station will prejudice future growth in Hinckley. Specifically they raise discrepancies in traffic flows, the failure to consider the impact of other development proposals, safety issues on junction design, incorrect modelling and issues with pedestrian and public transport.

Procedurally they comment that the proposed local centre should be subject to a sequential test as required by PPS 4 policy EC14.

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

Nuneaton and Bedworth Borough Council
Leicestershire and Rutland Playing Fields Association.

Policy:-

Central Government

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

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

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

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

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

PPS4 sets out the Government's national policies for economic development which includes employment, retail and community development but not residential development. The Statement sets out the overarching objective of securing sustainable economic growth. PPS4 Policy EC10 sets out that "Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably."

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

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

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

Planning Policy Guidance Note 24 – Planning and Noise guides Local Authorities on the use of planning powers to minimise the adverse impact of noise. It outlines the considerations to

be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

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

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.

Judgement was given last week in a second challenge by Cala Homes when the Court held that the SoS's intention to reform the planning system by removing regional strategic planning from it is to be taken into account as a material consideration.

In relation to the weight to be given to that intention as a material consideration the Court held that the weight to be given to relevant provisions of Regional Strategies pending the legislative process will be for decision-makers to gauge. Until the end of that process is reached Regional Strategies will remain in place as part of the development plan.

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

Local Policy

Local Development Framework Core Strategy 2009

Policy 1 – Development in Hinckley states inter alia:-

- a) Require the redevelopment of the railway station to deliver a transport interchange;
- b) Support the provision of a new bus station plus the efficient provision and management of town centre car parking and transport to reflect Hinckley role as a sub regional centre;
- c) Require transport improvements in line with Policy 5.

Policy 4 – Development in Burbage states that the Council will allocate land for the development of a minimum of 295 new residential dwellings, focused primarily to the north of Burbage adjacent to the Hinckley settlement boundary to support the Hinckley sub regional centre. The council will allocate land for development of 10 hectares of B8 employment land and 4 hectares of B2 employment land adjacent to the railway line as an extension to Logix Park. A proportion of the B2 employment should be for start up businesses as supported by the Burbage Parish Plan. Reference is also made to the need to address existing deficiencies in open space provision, deliver the Green Infrastructure Network and deliver cycling routes.

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

Policy 15 seeks the provision of Affordable Housing on residential proposals within urban areas at the rate of 20% with a tenure split of 75% social rented and 25% intermediate housing. The policy sets out that this may be negotiated on a site by site basis taking into account identified local need, existing provision, characteristics of the site and viability.

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

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

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

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

Hinckley and Bosworth Local Plan 2001

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

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

Policy BE7: Development in Conservation Area seeks to ensure that all development either preserves or enhances the character of the Conservation Area.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance for Residential Development
Supplementary Planning Document Play and Open Space
Supplementary Planning Document Sustainable Design.

Other Material Considerations

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

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

The Council's Adopted Protocol on Renegotiating Developer Contributions allows for reduced developer contributions where a verified viability appraisal is provided and the site is brownfield in nature.

Appraisal:-

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

Principle of Development

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

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

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

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

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

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

To overcome the previous holding objection from Sport England, an amended Masterplan has been received that now omits the provision of the car park to the Rugby Road playing field.

Development in the Countryside

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

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

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

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

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

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

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

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

considered sufficiently detrimental to the character and appearance of the countryside to warrant refusal. This aspect is therefore considered to accord with policy NE5.

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

Economic and Retail Impact

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

The submitted PPS4 study looks at the matter of developments economic impact in detail and provides a sequential approach to the uses proposed. The study was prepared to address the requirements of Planning Policy Statement 4: Planning for Sustainable Economic Growth in respect of the components of the planning application proposal which are uses to which the Town Centre Policies of the PPS apply. It carried out all assessments required by PPS 4 to support the application proposals and concluded that there are no sequentially preferable sites to the application site that meet the requirements of being suitable, viable and available. In conclusion therefore, there is no evidence that suggests the proposal will result in any material impact on economic and retail development in the locality

Employment Land

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

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

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

The Employment Land and Premises Study recommends a density rate of 3900 square metres per hectare. Using this density the proposed square meters of employment space would require 17.6 hectares, this compares well with the applicants statement that the employment development would require 18.7 hectares.

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

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

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

Five year housing land supply

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

The most recent Annual Monitoring Report shows a 477 dwelling shortfall in supply or a provision of four years within the Borough.

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

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

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

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

Impact on Neighbouring properties

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

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

Additional indicative landscape and bunding details have been submitted to further demonstrate the applicants understanding of the sensitivities of this boundary and the indicative proposal will be delivered through the subsequent reserved matters approval.

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

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

Following concerns raised by the Head of Community Services (Pollution) in respect of the possible impact adjacent commercial uses may have on the future occupiers of the residential elements of the scheme a noise assessment has been carried out. The primary concern here relates to the AP Burgess site adjacent to the sites northern boundary and the possible impact of the proximity of the existing railways line to the proposed dwellings.

The noise assessment looks at the sources and extent of the noise and concludes that subject to appropriate mitigation there would be not adverse material impact upon the future occupiers. To this end conditions are proposed to secure the appropriate degree of mitigation (acoustic fencing and the informed siting of the dwellings) is secured and maintained. This conditional approach is considered reasonable and appropriate given the direction of Policy 4 of the Core Strategy which seeks to encourage development in this locality.

In considering the impact on residential amenity it is important to note that the layout of the site and the scale of the development is not for consideration at the current time and will be considered fully at the reserved matters stage.

Access and Highways

Following the deferral of the application, extensive work has taken place to ensure a robust highways proposal has been presented.

The scheme proposes two accesses to the site which are for determination at this outline application stage. Firstly, to the east access is proposed from the A5 through the existing Logix Park road network to the eastern end of the development site. Secondly, alterations are proposed to Rugby Road to incorporate a gyratory roundabout providing access to the residential and local centre to the west and the park and adjacent development to the east. The only link between Rugby Road and the A5 will be for buses and a bus gate will prevent access by other vehicles.

In light of the extensive negotiations that have taken place on the highways matters, The Director of Environment and Transport (Highways) raises no objection subject to conditions and public transport developer contributions. They describe the site as being in a sustainable location as it is close to amenities and within walking distance of the train station. They consider that the scheme will generate traffic even when considering the historic traffic levels from the site and therefore mitigation is required on adjacent junctions.

The scheme now proposes the following highway improvements/works:-

Rugby Road and Hawley Road

Removing the roundabout and replacing it with a signal control junction, including signal controlled pedestrian crossings on the Hawley Road and Rugby Road (north) arms of the junction. The signal junction will use the latest control system (MOVA) which will optimise junction efficiency. The junction will also be connected to the existing urban traffic control system, thereby enabling greater control of traffic flows on the Rugby Road corridor.

Rugby Road and Brookside

A contribution will be made to replacing the existing signal control system with the latest control system (MOVA), which will optimise junction efficiency.

The submitted travel plan seeks to ensure the development will achieve a degree of modal shift between the private car and public transport in accordance with sustainable transport planning objectives. However it has been recognised that due to the nature of the scheme this modal shift may not occur and as such the development may result in further vehicle movements. If this were to occur, to ensure this is appropriately mitigated the travel plan incorporates a penalty bond attached to a mitigation scheme at Rugby Road/Brookside junction. Accordingly, should the modal shift not occur within a given timescale the Highway Authority will be able to call upon the bond to then deliver the mitigation works at the Brookside junction. The agreed mitigation works are:

Rugby Road and Brookside (Travel Plan Remediation scheme)

If required, the exit carriageway on the Rugby Road (south) arm of the junction would be widened to two lanes before merging back to one lane. This would allow ahead traffic from the Rugby Road (north) arm of the junction to use both lanes, thereby improving the efficiency of this arm of the junction and reducing queuing.

The accompanying transport assessment recognises that the proposal will have an impact at the Dodwells roundabout and Longshoot junction on the A5 and proposes proportionate mitigation to these junctions. The Highways Agency are responsible for the A5 and initially directed against approval as the application had not demonstrated that it will not have a detrimental impact on Dodwells roundabout. Following further discussions a scheme of improvements to the roundabout has now been agreed and the direction has been lifted subject to conditions. The improvements comprise:

- The Longshoot
Improvements to the traffic signals at the A5/A47 Long Shoot junction to provide additional capacity.

- Dodwells
To alter the A5 eastern arm of the roundabout to allow ahead movements on the A5 to use both lanes, thereby increasing capacity at the junction.

Impact on the Conservation Area

The site's western boundary abuts the Ashby-de-la-Zouch canal, which is a designated Conservation Area and is afforded protection through Policy BE7 and REC6 of the Adopted Local Plan. The development identifies the canal as an important constraint to the layout of the site and seeks to maintain an open area adjacent to the canal. This is the canal side park open space.

The canal is predominately rural through its length within the Borough and the indicative layout of the site seeks to maintain this character, accordingly it is considered that the development preserve the character of the Conservation Area. It is important to note that through the consideration of the reserved matters further consideration to the detail of the proposal will be maintained in this respect.

Developer Contributions and Affordable Housing

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

Requests for contributions have also been received from the Primary Care Trust, the Police, Sport England, Network Rail and the Inland Waterways Association. Officers have also progressed discussions with the applicant in respect of the possible further community chest contributions to secure long term compliance with the Core Strategy Policies (1, 4, 5 and 20) in respect of people and vehicle movement and connections to the town centre.

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

The request from the Primary Care Trust also does not provide sufficient information. Further information has been requested but officers remain of the opinion that the request fails to satisfy the CII tests and cannot therefore be requested. However and notwithstanding the failure of a financial contribution Policy 4 of the Core Strategy does seek to deliver new healthcare provisions within Burbage and given the nature and scale of the proposal it is considered reasonable to seek to deliver land for healthcare provision. The applicant has demonstrated that they take their community and infrastructure very seriously and to this end have already entered into discussion with healthcare providers to deliver a healthcare provision as part of the Sketchley Brook development. To this end the Masterplan identifies the provision of an existing building that it will offer to healthcare providers for healthcare provisions in accordance with Policy 4. This building is the original Johnson's building that is located within the site that is sought to be retained. Without this offer the development would not be acceptable under the requirements of Policy 4.

The request from Network Rail relates to improvements to the train station given the additional demand that the development will inevitably place on the facility. However in the simplest term the request does not provide sufficient information to demonstrate the point and therefore officers remain of the opinion that the request fails to satisfy the CIL tests and cannot therefore be requested. Notwithstanding the failure of a financial contribution Policies 1 and 5 of the Core Strategy do seek to appropriately develop public transport within Hinckley and the Borough as a whole. To this end the applicant proposes to make a contribution to further develop public transport in the locality and it is the opinion of officers that the creation of a community chest fund with the specific intention to develop the user environment at Hinckley Railway Station is reasonable in this instance as there is sound development plan justification behind the proposal. Without this offer the development would not be acceptable under the requirements of Policy 5.

Policy 20 of the Core Strategy seeks to develop a connection between the identified green corridors of the Borough, in particular the Sketchley Brook corridor and the Ashby Canal corridor. This is further supported by consultees, in particular the Inland Waterways Association who request a contribution for a canal bridge and towpath improvements to the sites western boundary. Again, notwithstanding the failure of a financial contribution Policy 20 of the Core Strategy does seek to appropriately develop the green corridor connection in the locality. To this end the applicant proposes a contribution to further develop the sites green connections in the locality and it is the opinion of officers that the creation of a community chest fund with the specific intention to develop these connections and environmental improvements to the west of site is reasonable in this instance as there is sound development plan justification behind the proposal. Without this offer the development would not be acceptable under the requirements of Policy 20. .

In terms of the wider public transport and connectivity objectives of the Core Strategy, Policies 1, 4, 5 and 20 seek to improve connections within Hinckley and the Borough. The Sketchley Brook development is identified as the largest single development within the Hinckley sub-regional centre and as such there are sound planning arguments that suggest that the development should seek to deliver or at least contribute to these wide, important policy objectives. To this end detailed discussions have been held with applicant to try to establish a way forward that will allow the Sketchley Brook development to be fully policy compliant and make a positive contribution to the shape and function of the sub regional centre.

To deliver such policy objectives, it would be common place to form a development partnership and acquire the necessary sites and land to enable the schemes to come forward. In this case and given that many elements of the Policy objectives involve the public highway and publically owned land, land acquisition has not been feasible or appropriate. Accordingly, an agreement has been found with the applicant to contribute towards a community chest fund that will seek to deliver the objectives of Policies 1, 4, 5 and 20. This approach is considered to be CIL compliant as it has a sound development plan justification and would seek to contribute to transport and connection projects. If this approach to the contributions was not forthcoming the development would not be acceptable as it would be at odds with the objectives of the development plan, in particular the previously identified Core Strategy Policies. .

To achieve these development plan Policy objectives, the applicant is willing to contribute a maximum value of £250,000 towards a "Movement and Connection" community chest fund that will have the sole objectives of delivering the requirements of Policies 1, 4, 5 and 20 of the Adopted Core Strategy. This contribution will be used solely towards delivering:

Policy 1:

Require the redevelopment of the railway station site to deliver a transport interchange and improved facilities at the Hinckley Railway Station. This will be delivered by the private sector as part of the redevelopment of the railway station site in partnership with Network Rail/train operating company.

Policies 1 and 4:

Deliver safe, high quality cycling routes as detailed in Policy 5 with particular focus on the routes to Hinckley town centre and schools, existing and proposed residential and employment areas, community and leisure facilities, the Hinckley railway station and bus station and into the countryside to provide an alternative to car travel and encourage physical exercise.

Policy 5:

Links to existing urban area for buses (particularly the railway station), walking, cycling, and local traffic. Cycle routes to be implemented are identified in the Hinckley & Bosworth Borough Council's Hinckley Cycle Network Plan. Priority will be given to those strategic routes which connect the Hinckley, Burbage, Barwell and Earl Shilton urban areas.

Improvements to the provision and management of car parking and public transport to support the increased use of Hinckley town centre.

Support the use of the canal system for cyclists, walkers and other leisure uses. Where appropriate, developers will be expected to provide developer contributions to improve path surfacing.

Policy 20:

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

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

Policy REC2 would require 40 square meters of formal open space per dwelling to be provided on-site along with associated maintenance contributions for 10 years afterwards.

Policy REC3 would require the onsite provision of an equipped area of play at 5 square metres per dwelling and 15 square metres of informal space per dwelling along with associated with associated maintenance for 20 years afterwards..

Notwithstanding the requirements of Policies REC2 and REC3, the proposal is to provide a large amount of on site open space to ensure compliance with the policy objections in respect of the development of the site. Furthermore, the applicant is committed to the further development of the existing playing field site. Given the intrinsic nature of the open space

within the development, it is considered that a flexible and comprehensive approach to the provision and maintenance of play and space should be taken given the developments scale, nature and the viability case. To this end it is not considered reasonable or appropriate in the circumstances of this proposal to apply a strict REC2/REC3 calculation and as such a proactive hybrid approach has been adopted as it better suits the nature of the development. The developers offer is as follows:

Rugby Road Park

- a) A scheme of enhancement including improved recreation facilities, footpath/cycleway connections and landscape (£250,000) to be submitted to the Borough Council and implemented as approved
- b) A financial contribution of £128,000 for ongoing maintenance
- c) The transfer of the Park to ensure long-term public control.

Sketchley Brook Corridor (east)

- a) A detailed scheme including the restored Sketchley Brook to be submitted to the Borough Council and implemented as approved
- b) A financial contribution of £207,000 for ongoing maintenance
- c) The transfer of the Brook Corridor (east) to ensure long-term public control.

Neighbourhood Equipped Area for Play (NEAP)

- a) A detailed NEAP proposal (£80,000) to be submitted to the Borough Council and implemented as approved
- b) A financial contribution of £80,000 for ongoing maintenance.

Further green infrastructure

In addition to the above, detailed schemes will be submitted to the Borough Council for approval in relation to:-

The Sketchley Brook Corridor (west)

Structural landscape, particularly to the northern boundary alongside the railway

The Canalside Park

These proposals will be implemented as approved and will be the long-term responsibility of a management company working to a pre-set maintenance regime approved by the Borough Council.

In respect of affordable housing, Policy 15 of the Core Strategy sets a target of 20% of the dwellings to be provided as affordable housing with a 75%/25% split between social rented and intermediate tenure. The policy sets out that this may be negotiated on a site by site basis taking into account identified local need, existing provision, characteristics of the site and viability.

Viability

The applicant has submitted a Viability Assessment that demonstrates that not all of these requests can be met by the development due to the overarching costs of the development. The appraisal confirms that the scheme will result in profit equating to approximately 20% of

the total development cost. It is on this basis that the applicant has demonstrated that the scheme can afford 65% of the requested financial contributions.

The applicant acknowledges that it is not possible to rank the importance of the infrastructure to prioritise the distribution of the applicant's proposed CIL compliant contributions. Therefore, it is considered appropriate to apportion it consistently such that each CIL complainant service area will receive 65% of their requested figure.

The Viability Assessment has been subject to an independent assessment by the Homes and Communities Agency (HCA) who have concluded that the viability case is reasonable and reflective the developments costs. The HCA have also confirmed that a 20% profit is reasonable in the current market given the scale and nature of the proposal.

Having received confirmation from the HCA that the developer's viability case is reasonable the Council's Protocol on Renegotiating S.106 Contributions can be utilised.

In line with the S.106 Protocol it is considered that Steps 1 & 2 are not applicable in this case as the total amount of contributions requested cannot be provided. Step 3 confirms that "in exceptional circumstances and only where significant planning gains are available, which are seen as a priority for immediate delivery by the Council, Officers may consider a further step - a reduction in developer contributions (applicable to brown field sites only)". The application site is brown field in nature and is a key development plan priority for redevelopment and delivery.

National Guidance, Appeal Decisions and High Court Decisions all indicate that planning authorities should have regard to deliverability in their decision making and as such confirms that economic viability is material planning consideration that should be considered carefully and where not found to be material sound justification should be provided.

In this case, whilst the application cannot provide the full value of the contributions requested, it can provide a significant degree of funding for infrastructure development. Accordingly, it is considered reasonable to conclude that economic viability is a material consideration and planning permission should be granted on the basis of reduced contributions in accordance with the S.106 Protocol.

With the absence of any infrastructure hierarchy or priority delivery programme, all CIL compliant contributions should be reduced proportionality based on the contribution offered. Whilst this approach is considered to be robust in these viability circumstances, it is not appropriate to consider reducing the public transport and transport contributions as without these the development would be unacceptable in principle. Accordingly the public transport contributions are secured at full requested value, all others are secured at a reduced value:

The contributions offered equate to:-

- Education
 - Primary Education £580,000
 - Post 16 £366,000

- Play and Open Space
As detailed above under Developer Contributions.

- Affordable Housing
13% provision equating to a contribution of 49 properties.

- Movement and Connections Community Chest
£250,000
- Site for Healthcare Provision within the Development
Site identified and allocated as discussed above (note this site has a value for viability purposes and equates to £195,000).

Ecology

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

Concerns have also been raised by The Chief Executive, Leicestershire County Council (Ecology) and Natural England regarding the impact of the development on great crested newts as water bodies within 500 metres of the development have been assessed through the submission of additional information. A further bat survey has also been undertaken and both natural England and Ecology have removed their objections subject to conditions.

Sustainability

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

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

Other matters

The Chief Executive, Leicestershire County Council (Archaeology) had requested that trial trenching was undertaken prior to the determination of the application. This has taken place and a further report has been submitted. This is to the satisfaction of Archaeology who require no further pre-determination work and request conditions are imposed.

Conclusion

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

The application is recommended for approval subject to the resolution of these issues, conditions and a Section 106 agreement.

RECOMMENDATION:- That subject to no significant material observations being received by the end of the consultation period expiring on the 17 March 2011, the Deputy Chief Executive (Community Direction) shall be granted delegated powers to refer the application subject to the conditions and the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section III of the Local Government Act 1972 towards, affordable housing, the provision and maintenance of public play and open space facilities, highways improvements, education contributions, healthcare provisions and a movement and connections community chest, and issue the decision as instructed thereafter.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission and the completion of a legal agreement, the proposed development would be in accordance with the development plan as: it is a sustainable site within and adjacent to the urban area; would meet the identified need for residential and employment development in Burbage; would enhance the character and appearance of the area and would not be detrimental to the occupiers of neighbouring properties; and includes measures to mitigate its impact on the highway network and is not considered detrimental to highway safety. The development will preserve the character of the Ashby Canal Conservation Area.

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (2009):- Policy 1, 4, 5, 15,16, 20, 24

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

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

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

3 The reserved matters application shall include the following information for the prior approval by the Local Planning Authority.

- i) The external building materials
- ii) The provision to be made for vehicle parking within the site
- iii) The provision to be made for vehicle manoeuvring and turning within the site
- iv) The provision to be made for loading and unloading within the site
- v) The existing trees and hedges on the site, which are to be retained
- vi) The provision to be made for screening by walls and fences
- vii) The phasing of the development
- viii) The floor levels of all the proposed structures in relation to the existing ground level and the finished levels of the site
- ix) The provision to be made for the storage of refuse and/or recycling facilities.

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

4 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Masterplan 8411 P004-13, NTH 089 001A, NTH 089 400 P4, NTH 089 200P7, NTH 089 SK23 P3, FRA ref: IR/LW/NTH089/FRA-F.

5 All boundary treatments, planting, seeding and turfing comprised in the approved landscaping details shall be carried out in accordance with the approved implementation scheme submitted with the reserved matters application. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species unless otherwise agreed in writing with the Local Planning Authority.

6 Before the commencement of development of the industrial units, a scheme for protecting nearby dwellings from noise from the proposed development should be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

7 No development approved by this permission shall be commenced until a scheme for the management of noise during the site preparation and construction works on the site has been submitted to and agreed in writing by the Local Planning Authority. Development shall then be carried out in accordance with the approved scheme.

8 Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a long-term monitoring and maintenance plan for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the Local Planning Authority.

9 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the

unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

- 10 No development approved by this permission shall be commenced until a scheme for the management of air quality during the construction works on the site has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details.
- 11 Details of any external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaries type, mounting height, aiming angles and luminaries profiles). The lighting shall be installed, maintained and operated in accordance with the approved details unless the Local Planning Authority gives its written consent to the variation.
- 12 Prior to the commencement of any element of the residential development, a Code for Sustainable Homes Design Stage Assessment demonstrating that the dwellings hereby approved can be constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority. Prior to the occupation of the first dwelling of each of the house types hereby approved, a letter shall be provided to the Local Planning Authority by a Code Assessor confirming that that dwelling has been constructed to a minimum of Code Level 3. Within three months of the completion of the development, unless otherwise agreed in writing with the Local Planning Authority, a final certificate demonstrating that the development has been constructed to a minimum of Code Level 3 shall be obtained by the developer and submitted to the Local Planning Authority.
- 13 No part of the development accessed from the A5 shall commence unless and until a detailed design specification for the improvements to signalisation at A5/A47 Long Shoot Junction described in BWB Transport Assessment NTH 089F Revision 7 (Section 10.3) has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highways Agency. The improvements shall be constructed in accordance with the approved details prior to the first occupation of any building on the site accessed from the A5.
- 14 No building on the site accessed from the A5 shall be occupied until the improvements at A5 Dodwells roundabout shown on BWB Drawing No. NTH/089/600 Revision P3 have been completed to the satisfaction of the Local Planning Authority in consultation with the Highways Agency.
- 15 The development hereby permitted shall take place in total accordance with the agreed Framework Travel Plan dated October 2010 and with reference SD/RE/NTH089 Revision 7.
- 16 Prior to the first occupation of any dwelling hereby permitted, the signalisation of the Rugby Road/Hawley Road/Westfield Road as shown on BWB drawing number NTH/089/001a rev P4 Option 2 shall be completed to the satisfaction of the Local Planning Authority in consultation with the Highway Authority, unless agreed otherwise in writing with the Local Planning Authority. The signalisation shall be maintained as approved at all times thereafter.
- 17 Prior to the first occupation of any dwelling hereby permitted, the gyratory (roundabout) site access at Rugby Road as shown on BWB drawing numbers NTH/089/200 rev P7 and NTH/089/400 rev P4) shall be completed to the satisfaction

of the Local Planning Authority in consultation with the Highway Authority, unless agreed otherwise in writing with the Local Planning Authority. The access shall be maintained as approved at all times thereafter.

- 18 Prior to commencement of any part of the development hereby permitted, the detail of the proposed bus gate between the residential and commercial parts of the site shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority. The approved bus gate scheme shall be implemented prior to the occupation of the first dwelling or first commercial unit (any B1, C, B2, B8 use) of the development hereby permitted.
- 19 No walls, planting or fences shall be erected or allowed to grow on the Highway boundary at the gyratory (roundabout) site access at Rugby Road exceeding 0.9 metres in height above the level of the adjacent carriageway.
- 20 Notwithstanding the recommendations contained within the Vanguardia noise report (Project no: 00397) dated the 10 Nov 2010, Development shall not begin until a scheme for protecting the proposed dwellings from noise from Burgess AP has been submitted to and approved by the Local Planning Authority; This scheme shall include improvements to the boundary separating the Burgess AP yard and the proposed dwellings using substantial acoustic fencing, The internal design of the properties facing towards the Burgess AP yard ensuring that only non-habitable rooms are located on the on the elevation facing Burgess and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.
- 21 Notwithstanding the recommendations contained within chapter 8 of the Environmental Statement and the Vanguardia Noise Report (Project no: 00397) dated the 10 Nov 2010, development shall not begin until a scheme for protecting the proposed dwellings from noise and vibration from the adjacent railway has been submitted to and approved by the Local Planning Authority; and all works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.
- 22 No development shall take place within the application area until the applicant has secured the implementation of an appropriate programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted to and approved by the planning authority. The development shall be undertaken only in full accordance with the approved written scheme. No variation shall take place without the prior written consent of the local planning authority.
- 23 The applicant shall notify the local planning authority of the intention to commence works (including site works of any kind) at least one week before such commencement. Thereafter, the programme of archaeological work shall be completed in accordance with the approved written scheme of investigation, including any necessary fieldwork, post-excavation analysis, report writing and archive deposition, as detailed in the approved scheme. The report and archive shall be prepared and deposited no later than six months after the commencement of fieldwork. No variation shall take place without the prior written consent of the local planning authority.
- 24 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) and the following mitigation measures detailed within Chapter 9, and Appendix 9 (the FRA undertaken by BWB Consulting dated May 2010, Ref: IR/LW/NTH089/FRA-F):

1. (Paragraphs 9.87 and 9.89) Limiting the surface water run-off generated by all events up to the 100 year plus 20% commercial (for climate change), 30% residential (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.
2. (Paragraphs 9.24, 9.59 and 9.85) Improvement/protection and maintenance of the existing Sketchley Brook, and reinstatement of the culverted section of the Sketchley Brook to open watercourse.
3. Finished floor levels are set no lower than 600mm above the 100 year plus 20% for climate change flood level, or 150mm above proposed external ground levels or the adjacent highway (whichever is the greater) applicable to each phase of the site.
4. No raising of ground levels within the 100 year flood plain of the Sketchley Brook as established by the FRA (with the exception of the Logix Park Access, as detailed on Drawing Nos. NTH/089/SK16 P4, SK18 P1, SK19 P1, and ST003 P3).

25 Development shall not begin until a surface water drainage scheme for each phase of the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. Each phase of development shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall include:-

1. Limiting the surface water run-off generated by all events up to the 100 year plus 20% commercial (for climate change), 30% residential (for climate change) critical rain storm.
2. Provision of surface water run-off attenuation storage on the site to accommodate the difference between the allowable discharge rate and all events up to the 100 year plus 20% commercial (for climate change), 30% residential (for climate change) critical rain storm.
3. Details of how the scheme shall be maintained and managed after completion.

26 The development hereby permitted shall not be commenced until such time as a detailed design of the reinstatement of the Sketchley Brook to open watercourse as outlined on Drawing Nos. Masterplan (Option 14 Rev E), and NTH/089/200 P6, has been submitted to, and approved in writing by, the local planning authority in consultation with the Environment Agency.

Implementation of the reinstatement of the Sketchley Brook to open watercourse shall be undertaken during the ground works phase of the development, and be fully operational prior to the construction of new dwellings across the site.

27 Prior to the commencement of development, a working method statement to cover all works involved in the reinstatement of the Sketchley Brook to open watercourse, shall be submitted to and agreed in writing by the local planning authority in consultation with the Environment Agency. Thereafter the development shall be carried out in accordance with the approved designs and method statement for the reinstatement of the Sketchley Brook to open watercourse and any subsequent amendments shall be

agreed in writing with the local planning authority in consultation with the Environment Agency.

The working method statement shall include details on the following:-

Time programme for the works.

Methods used for all channel and bank-side/water margin works.

Machinery to be used.

Location and storage of plant, materials and fuel.

Access routes to the works, access to the banks of the watercourses.

Method of protection of areas of ecological sensitivity and importance.

Site supervision.

Location of site office, compounds and welfare facilities.

- 28 Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.
- 29 The development hereby permitted shall not be commenced until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.
- 30 The development hereby permitted shall not be commenced until such time as a scheme to install trapped gullies has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reasons:-

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

- 8&9 To ensure the safe development of the site and to protect amenities of future occupiers of the development to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 10 To ensure the construction phase is not detrimental to the amenity or health of neighbouring residents to accord with Policy BE1 of the Local Plan.
- 11 To protect the appearance of the area, the environment and local residents from nuisance from artificial light to accord with local plan policy BE1.
- 12 In the interests of sustainable development to accord with Policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.
- 13-14 To ensure that the A5 Trunk Road continues to serve its purpose as part of a national system of routes for through traffic in accordance with Section 10 (2) of the Highways Act 1980 by minimising disruption on the trunk road resulting from traffic entering and emerging from the application site and in the interests of road safety to accord with policy T5 of the Local Plan and Core Strategy Policy 5.
- 15 In the interests of sustainability of the development and to encourage alternative transport choice to accord with Planning Policy Guidance Note 13: Transport and the requirements of Policy T5 of the Adopted Hinckley and Bosworth Local Plan.
- 16&17 In the interests of highway and pedestrian safety, and the operation of the highway network. To ensure compliance with Policy T5 of the Adopted Hinckley and Bosworth Local Plan.
- 18 In the interests of highway safety to discourage "rat running" between the A5 and Rugby Road and promote sustainable travel, and to encourage modal shift for a healthy and safe environment., To ensure compliance with Policy T5 of the Adopted Hinckley and Bosworth Local Plan.
- 19 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 ensure compliance with Policy T5 of the Adopted Hinckley and Bosworth Local Plan.
- 20&21 To ensure the development does not have an adverse impact on the amenities of surrounding properties in terms of noise to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan
- 22 To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation in accordance with the requirements of PPS5.
- 23 To ensure satisfactory archaeological investigation and recording in accordance with the requirements of PPS5.
- 24 To prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site. To reduce the risk of flooding to the proposed development and future occupants and to ensure compliance with PPS25.
- 25 To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system. To ensure compliance with PPS25.

- 26 To secure the implementation of the reinstatement of the Sketchley Brook to open watercourse within the site and to reduce the impact and risk of flooding overall. To secure compliance with PPS25.
- 27 To reduce the risk of significant diffuse pollution of the water environment arising from ground works and damage to water dependant species and habitats during the construction phase of the proposed development affecting the Sketchley Brook. To ensure compliance with Policies NE13 and NE14 of the Adopted Hinckley and Bosworth Local Plan.
- 28 To ensure that any remedial works required as an outcome of the applicant fulfilling the requirements of the above condition are completed to a satisfactory standard. To prevent the pollution of the water environment, notably the Sketchley Brook and the wider alluvial aquifer. To ensure compliance with Policies NE13 and NE14 of the Adopted Hinckley and Bosworth Local Plan.
- 29&30 To protect the water environment and to ensure compliance with Policies NE13 and 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 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 A Section S61 agreement under the Control of Pollution Act 1974 should be considered as recommended in the submitted Noise Impact Report.
- 6 The applicant/developer is advised to contact the Third Party Works Engineers Team at the Fazeley Office on 01827 252000, in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways' Code of Practice for Works affecting British Waterways.

Contact Officer:- James Hicks Ext 5762

Item: 02
Reference: 10/00779/FUL
Applicant: Printing & Packaging Co. Ltd
Location: 5 Jacknell Road Hinckley
Proposal: ERECTION OF ONE NEW INDUSTRIAL UNIT
Target Date: 1 March 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the development comprises a general industrial use where the proposed floor space is greater than 500m² or more, or where the site area is 0.5 ha or more.

Application Proposal

The application is for an industrial unit with a floor area of 155 metres squared. The unit will have a shallow pitched roof, with a maximum height of 11m and will be steel portal framed. The building will be finished in materials to match those of surrounding units. To the front of the unit, projecting at first floor from the principal building, is a flat roofed office, this will be finished in glazed panels and flat cladding panels, and will be supported by brick pillars at irregular intervals. This will span two thirds of the front elevation. Parking will be situated beneath the canopy. A full height roller shutter door, a range of windows and the main entrance will be situated within the front elevation, and to either side elevation are access doors. The proposed unit will be situated between units 4 and 6, on a similar building line. A parking area is proposed to the front of the building, facing Jacknell Road to the east. This will accommodate 27 car parking spaces, 12 of which are provided undercover and an area allocated for lorry parking. Landscaping is proposed to the front and rear boundaries. Access will be gained by a double width access, situated towards the southern end of the front elevation, and a single access towards the northern end of the front elevation. Both accesses will be served by sliding security gates. Internally the floor area will comprise 1270 metres squared of production area, a workshop, canteen, toilets and reception at ground floor; and offices, a boardroom and toilets at first floor.

The Site and Surrounding Area

The site is located on the Dodwells Bridge Industrial Estate to the south west of Hinckley Town Centre.

The estate adjoins the older Harrowbrook Industrial Estate and is classified as a Category A site within the Councils Employment Land and Premises Study. The estate incorporates a mix of B1, B2 and B8 uses, located within various sized buildings. Jacknell Road is a cul-de-sac; with the application site situated towards the northern end. Jacknell Road loops round the adjacent unit 6, providing two road frontages to the site. The site occupies a central plot on the industrial estate and is surrounding by commercial buildings to each elevation. Further beyond the industrial estate there is open countryside to the north and west and road frontages to the reaming two sides. The site currently comprises a bus company depot. It has an area of 0.6 acre and contains a workshop, permitted in 1990 with a floor area of approximately 211 metres squared and a more recently added portacabin. Both of these

buildings are fit for purpose. The site is flat and the surrounding ground is level. There are no distinguishing landscape features. The surrounding buildings are of a similar scale being typical portal framed industrial units.

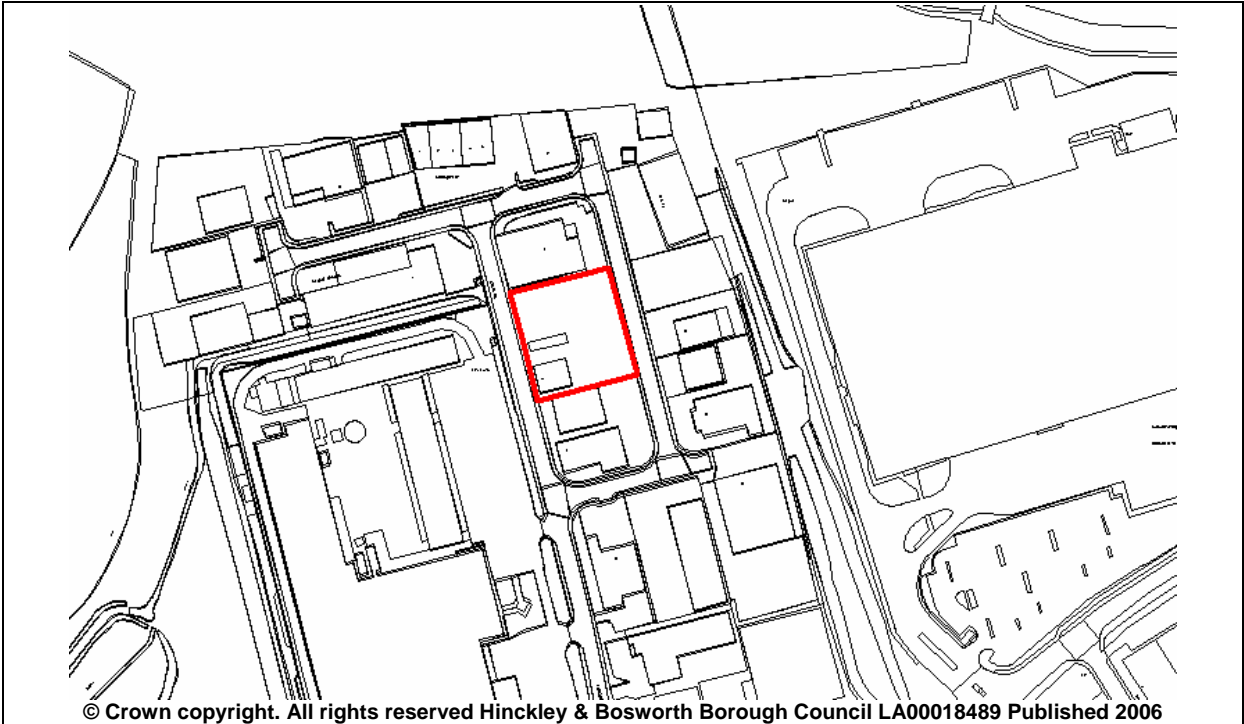
Technical Documents submitted with the application

A Contamination Report and a Design and Access Statement have been submitted. The Contamination Report has identified that there may be potential ground contamination, however given the nature and use of the site, risks are considered to be low. Accordingly the undertaking of a more intrusive investigation has been recommended.

The Design and Access Statement provides a comprehensive analysis of the site, the surrounding units and the access both within the site and within the wider area. And provides justification for the development in terms of local planning policy.

History:-

| | | | |
|--------------|---|----------|----------|
| 00/00375/FUL | Removal of three portable buildings and siting of one portable building | Approved | 09.06.00 |
| 94/00988/COU | Use as a bus depot, erection of boundary fence and siting of portable buildings | Approved | 10.02.95 |
| 90/0962/4 | Erection of workshop and office building | Approved | 23.10.90 |
| 89/00265/4 | Extension of Lorry parking area permission to site 2 temporary buildings approval of screen planting and road formation at entrance | Approved | 21.03.89 |



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Consultations:-

No objection has been received from:-

Severn Trent Water
Environment Agency
The Leicestershire Constabulary Crime Reduction Officer
Head of Community Services (Drainage).

No objection subject to conditions has been received from:-

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

Site notice and Press notice were displayed and neighbours notified.

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

Head of Business Development and Street Scene Services
Neighbours.

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 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.

Judgement was given last week in a second challenge by Cala Homes when the Court held that the SoS's intention to reform the planning system by removing regional strategic planning from it is to be taken into account as a material consideration

In relation to the weight to be given to that intention as a material consideration the Court held that the weight to be given to relevant provisions of Regional Strategies pending the legislative process will be for decision-makers to gauge. Until the end of that process is reached Regional Strategies will remain in place as part of the development plan.

The East Midlands Regional Plan 2009

The East Midlands Regional Plan 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 Development Framework Core Strategy 2009

None relevant.

Hinckley and Bosworth Local Plan 2001

Policy BE1 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 EMP1 of the adopted Local Plan seeks to protect existing employment sites. The site in question is afforded the highest degree of protection by the policy; in that it seeks to retain the uses on the site for the plan period and does not encourage change of use on the site.

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

Other material policy guidance

The Employment Land and Premises Study 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.

Appraisal:-

The principle of the erection of an industrial unit on this protected employment site is considered acceptable and accords with policies EMP1 of the adopted Local Plan. Therefore the main considerations with regards to this application are design and appearance, impacts on the character of the area and highways. The site is not located near residential properties, as such there are no impacts upon neighbouring residential amenity to be considered.

Design and Appearance

The building proposed is of a similar design and material to the industrial units built adjacent, however it has a much larger footprint and is of a much larger scale. This said, although it will dominate the buildings either side, it is situated on a sufficiently sized plot and will be built on a similar building line. Further, its appearance within the street scene will be reduced due to its set back. To reduce impact on plot 4, which comprises a single storey building, the proposed unit has been designed with a step in its front elevation, and the first floor accommodation, which projects forward of the neighbouring units building line has been set away from the common boundary by 11.8m. To enhance the otherwise bland front elevation of the building, projecting first floor office accommodation and a double height glazed reception has been provided. This will be constructed from a different pallet of materials to those chosen for the main building, including glazed, and horizontal clad panels and will incorporate first floor fenestration. The remainder of the building will be constructed from plastic coated profiled cladding panels over facing brickwork, which is common of the area. Landscaping similar to that of surrounding units will be provided along the front and rear boundaries. This will help soften the large expanses of hard surfacing. The proposal is considered in keeping with the existing development on site, and the design feature to the front elevation will add interest, thus improving its appearance. The development proposed is considered an improvement over the current buildings on the site, one of which comprises a temporary portacabin and the other a uniform industrial building of simple design and limited detail. The proposal is therefore in accordance with policy BE1 of the adopted Hinckley and Bosworth Local Plan

Impact on the character of the area

Street scenes within the estate are dominated by buildings close to the back of footpaths, palisade fencing or open service areas, and the design of building comprises typical portal framed industrial units. The proposed unit will enhance the visual amenity of the street, due to the unique design of its first floor reception, and its appearance will be softened through the use of soft landscaping along the front and rear boundaries. The bulk of the building, resultant of its design and materials will be in keeping with the surrounding industrial units.

Highways

The parking area is provided to the front (eastern elevation) of the building. The area provides 27 car parking spaces and an area allocated for lorry parking. Although the provision is slightly under the recommended maximum, the Director of Environment and Transport (Highways) has considered this acceptable. The size of parking spaces, and the distance between them is in accordance with local planning guidance. The site will be served by two accesses situated along the eastern boundary; one will serve lorries and the other, cars. The design of these is in accordance with the County Councils HTD Document. Accordingly the proposal accords with policy T5 of the adopted Local Plan.

Conclusion

As the site is a protected employment site, the principal of additional industrial development is considered acceptable. Overall, by reason of its design, scale, material, landscaping, and the proposed parking and access arrangements, there are considered to be no adverse impacts upon the character or appearance of the site, or on the visual amenity of the street scene, or on the amenities of adjacent units. Accordingly, subject to conditions, the proposal is considered acceptable.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. Resultant of the design, scale and materials proposed there are considered to be no material impacts on visual amenity or on the character of the area and the parking and access proposed is considered acceptable. Accordingly the scheme is considered acceptable.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, EMP1, NE2 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 be carried out in accordance with the submitted application details, as follows: Plan No. :- 04A received by the Local Planning Authority on the 6 October 2010 and Plan Nos. 06 and 07 received by the Local Planning Authority on the 30 September 2010.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed industrial unit shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 The car and lorry parking and any turning facilities shown within the curtilage of the site shall be provided before the unit is first brought into use and shall thereafter permanently remain available for such use unless otherwise agreed in writing by the Local Planning Authority.
- 5 Notification of the commencement date of any site investigation work relating to potential contamination should be given in writing to the Local Planning Authority not less than 14 days before such works commences.

- 6 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.
- 7 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure that adequate off street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area. To accord with policy T5 of the adopted Local Plan.
- 5-7 To ensure the development does not result in contamination, to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Eleanor Shaw Ext 5691

Item: 03

Reference: 10/00887/CONDIT

Applicant: Mr Tony Wyatt

Location: Mira Ltd Watling Street Lindley Higham On The Hill Nuneaton

Proposal: VARIATION OF CONDITION NO. 2 OF PLANNING PERMISSION 08/00720/FUL TO AMEND THE NUMBER OF PROPOSED GANTRIES

Target Date: 21 April 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

Planning permission (ref: 08/00720/FUL) was approved for the construction of city circuit and ancillary facilities including creation of pond and erection of mast and control centre with associated parking and access in 2008. This is an application for the variation of condition 2 attached to planning permission 08/00720/FUL, to add an additional gantry.

The additional overhead gantry is proposed to be erected within the city test track along with eight other gantries already approved. During the course of the application the applicant has submitted additional information regarding the span and height of gantries. Each gantry would measure a maximum of 8 metres in height and vary in width from 15 metres to 25 metres.

The Site and Surrounding Area

The application site is located within the established Motor Industry Research Association (MIRA) site which is a unique and extensive motor industry testing facility. The city test track is located within MIRA proving ground, designated as the MIRA test area within the Hinckley and Bosworth Local Plan (2001).

The site of MIRA and its associated grounds are located on Watling Street (A5), between the villages of Higham on the Hill and Fenny Drayton, with the A5 running to the south. The proposed development would utilise the existing access to the MIRA site, from the A5. This development does not propose any modifications to this junction.

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

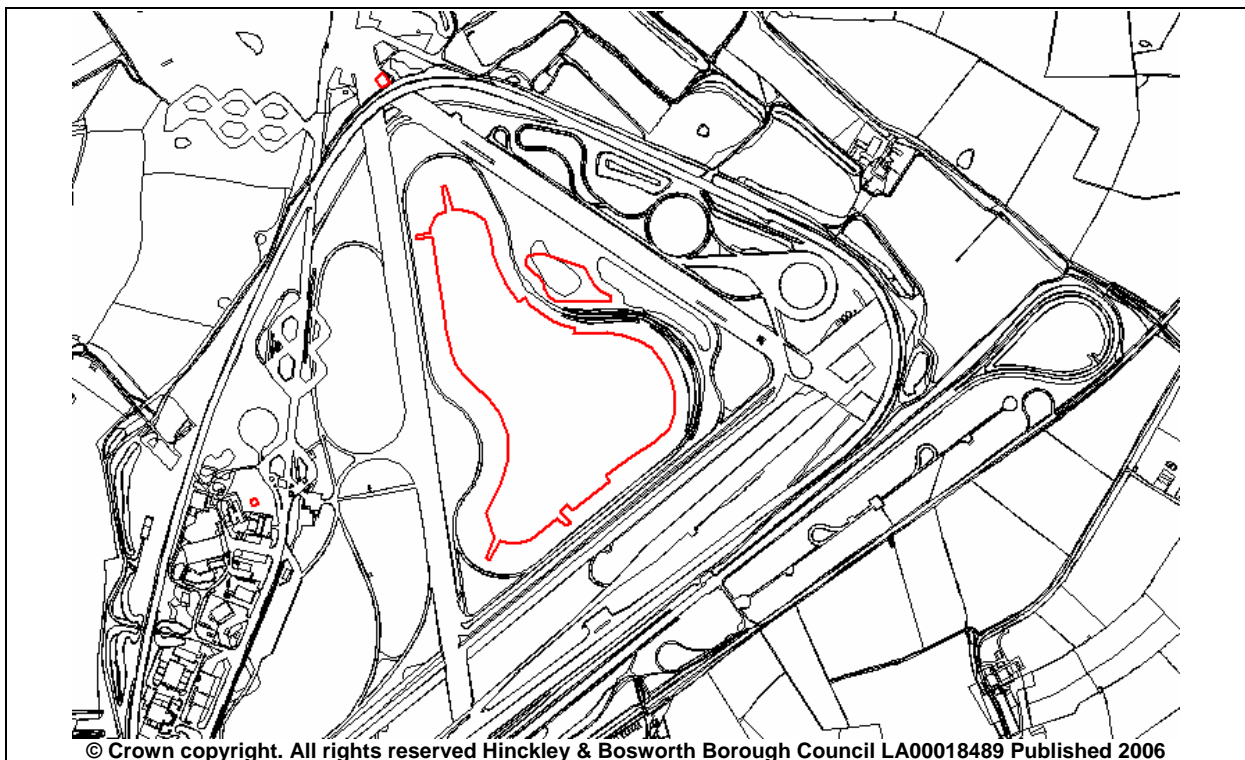
Technical Documents submitted with application

The original application was accompanied by an ecological survey, flood risk assessment and drainage strategy, traffic statement and noise level survey and impact assessment. No other supporting information has been submitted as part of this application.

History:-

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

| | | | |
|--------------|---|----------|----------|
| 10/00800/FUL | Construction of workshop and associated office block and proving ground control rooms | Approved | 06.01.11 |
| 10/00572/FUL | Construction of a steel portal framed building | Approved | 06.09.10 |
| 10/00483/FUL | Erection of portal framed building | Approved | 02.09.10 |
| 09/00464/FUL | Retention of portacabin for use as offices | Approved | 10.08.09 |
| 09/00463/FUL | Retention of portacabins for use as offices | Approved | 10.08.09 |
| 09/00462/FUL | Retention of building for the storage of vehicles | Approved | 10.08.09 |
| 09/00313/FUL | Retention of storage for prototype vehicles | Approved | 16.06.09 |
| 08/00720/FUL | Construction of city circuit and ancillary facilities including creation of pond and erection of mast and control centre with associated parking and access | Approved | 20.11.08 |



Consultations:-

No objection has been received from:-

Highway Agency
Environment Agency
Directorate of Chief Executive, LCC (Ecology)
Director of Environment and Transport (Highways)
North Warwickshire Borough Council
Nuneaton and Bedworth Borough Council
Ashby Canal Association
Head of Community Services (Land Drainage)
Head of Community Services (Pollution).

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

Severn Trent Water Authority
Witherley Parish Council
Higham on the Hill Parish Council.

The consultation period remains open at the time of writing and closes on 2 March 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 4 (PPS4): 'Planning for Sustainable Economic Growth' in policy EC2.1(d) seeks to make the most efficient and effective use of land, prioritising previously developed land which is suitable for re-use and reflects the different location requirements of businesses, such as the size of site required, site quality and access. Policy EC6.2 (a) and (b) state that in rural areas, local planning authorities should: strictly control economic development in open countryside away from existing settlements, or outside areas allocated for development in development plans. Policy EC10: Determining Planning Applications for Economic Development" which supports applications which secure sustainable economic growth. Policy EC10.2 sets out five impact considerations which all applications for economic development have to be assessed against.

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

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.

Judgement was given last week in a second challenge by Cala Homes when the Court held that the SoS's intention to reform the planning system by removing regional strategic planning from it is to be taken into account as a material consideration

In relation to the weight to be given to that intention as a material consideration the Court held that 'the weight to be given to relevant provisions of Regional Strategies pending the legislative process will be for decision-makers to gauge. Until the end of that process is reached Regional Strategies will remain in place as part of the development plan.

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

Local Development Framework: Core Strategy 2009

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

Hinckley and Bosworth Local Plan 2001

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

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

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

Policy BE1: 'Design and Siting of Development' states that planning permission for development proposals will be granted where they: complement or enhance the character of the surrounding area with regard to scale, layout, density, design, materials and architectural features; ensure adequate highway visibility and parking standards and manoeuvring facilities and do not adversely affect the amenities of neighbouring properties.

Policy NE10: 'Local Landscape Improvement Area' states that any development permitted should include comprehensive landscaping proposals.

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

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

Other Material Policy Documents

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

Appraisal:-

The main considerations with regards to this application are the principle of development, residential amenity, visual intrusion and other issues.

Principle of Development

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

Policies EMP1, EMP5 and EMP6 of the Adopted Hinckley and Bosworth Local Plan generally support development within the MIRA site. As such, there is a presumption in favour of development subject to all other planning matters in particular amenity, highways, visual intrusion and pollution, being appropriately addressed and controlled. Whilst no additional information has been submitted in support of the application, the previous application sought to address all of these issues in the submission and consultees were consulted on the respective issues and subsequently the application was considered acceptable.

The principle of the construction of a city circuit and ancillary facilities has already been established through the earlier grant of planning permission (ref: 08/00720/FUL) therefore the main considerations with regards to this application are the impact of the proposed variations to the approved scheme on the neighbouring residential properties, character and appear of the wider landscape and other material issues.

Residential Amenity

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

Within the previous application it was considered that the noise and lighting proposed would not result in any significant detrimental impacts to amenities of nearby occupiers.

The addition of the ninth gantry is not considered to add any significant detrimental affects to the impact upon residential amenity.

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

Visual Intrusion

The MIRA site, because of the highly competitive and therefore confidential nature of the testing that takes place within the site, it is already well landscaped which results in a site that from the outside offers very limited visual viewpoints. Accordingly, any development within the site is unlikely to be easily seen from outside the site. There are obviously seasonal changes to the landscape cover which allow greater views into the site but generally these views are only partial glimpses of activity rather than key open views.

Given the location of the additional gantry within the city test track to the centre of the MIRA site, it is not likely that this would be seen from outside of the site and will therefore not adversely affect the character and appearance of the wider landscape.

In summary, it is considered that the addition of the gantry would not be visually prominent from outside of the site and as such would not be significantly detrimental to the character and appearance of the wider landscape. Accordingly, the scheme is considered to be in accordance with Policy BE1 and NE5 of the Local Plan.

Other Issues

Access and Highway Considerations

The development does not intend to improve or modify the A5 junction and the proposed development is not expected to have a material impact on the closest strategic route, the A5 Trunk Road. The development has been considered by both the Highways Agency and the Director of Environment and Transport (Highways) and both parties raise no objection to the development on highway grounds.

Drainage and Flood Risk

The Flood Risk Assessment was submitted with the previous application, and both the Environment Agency and Severn Trent Water has no objection submitted to the imposition of planning conditions. It is considered that the addition of a gantry would not raise any additional flood risk to the site.

Landscaping

It is considered that the MIRA site already benefits from existing landscaping and is characterised by mature hedgerows to the east of the site and as such it is not considered necessary to ensure additional substantial landscaping on the site in accordance with Policies NE10 and NE12 of the Local Plan.

Conclusion

The principle of this development has already been established in a previous planning permission (ref: 08/00720/FUL). Overall by reason of the scale of the proposed changes together with existing landscaping, it is considered that there would not be any significant material impacts upon visual or residential amenity. The proposed gantry is not considered

to have a detrimental impact upon the A5 and the risk of flooding is considered minimal. Accordingly it is recommended that planning permission be granted, subject to the imposition of the previous planning conditions.

RECOMMENDATION : - That subject to no significant material observations being received by the end of the consultation period expiring on the 2 March 2011, the Deputy Chief Executive (Community Direction) shall be granted delegated powers to grant planning permission for the development subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the 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 there would not be any additional significant material impacts upon residential amenity, the wider landscape, access and highways or flooding.

Hinckley & Bosworth Local Plan (2001):- EMP1, EMP5, EMP6, BE1, NE10, NE12,T5.

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (2009):
- Spatial Objective 1.

- 1 This permission relates to the variation of Condition 2 of planning permission reference 08/00720/FUL dated 20 November 2008, 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 10/00887/CONDIT 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: PG/054/001 Rev A received by the Local Planning Authority on 20 January 2011 and PG/054/002 Rev F received by the Local Planning Authority on 7 February 2011.

Reasons:-

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

Notes to Applicant:-

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

Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.

4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

Contact Officer:- Ebony Mattley Ext 5691

Item: 04

Reference: 10/00920/FUL

Applicant: Mr Matthew Gilliver

Location: Land Congerstone Lane Barton In The Beans

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

Target Date: 17 January 2011

Introduction:-

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

This application was deferred at the Planning Committee meeting held on 5th January 2011 to allow further evaluation of the proposal and further advice to be sought. The following report is an updated version of the previous report which includes the further advice that has now been obtained and the additional consultations received which were previously reported as late items.

Application Proposal

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

The application is in connection with planning permission 08/00700/FUL which was for the extension and change of use of an agricultural building to equestrian use as 20 stables, tack room and storage, together with the formation of a manège. on a site of 4.5 hectares. The application was granted planning permission on 11 September 2008 and contains a condition which limits the number of horses on site at any time to a maximum of 20. The applicants have commenced development in connection with this planning permission and the livery business has been established albeit, not at the full capacity.

The proposal is for a 'log cabin' type mobile home which has dimensions of 13.6 metres x 6.1 metres, with an open veranda area of 2.1 metres x 6.1 metres to one end. It is single storey, timber clad with a ridge height of 3.5 metres. The roof materials are metal profiled roof

sheeting. The total floorspace is 83 square metres and would provide a dwelling with two bedrooms.

The Site and Surrounding Area

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

Technical Documents submitted with application

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

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

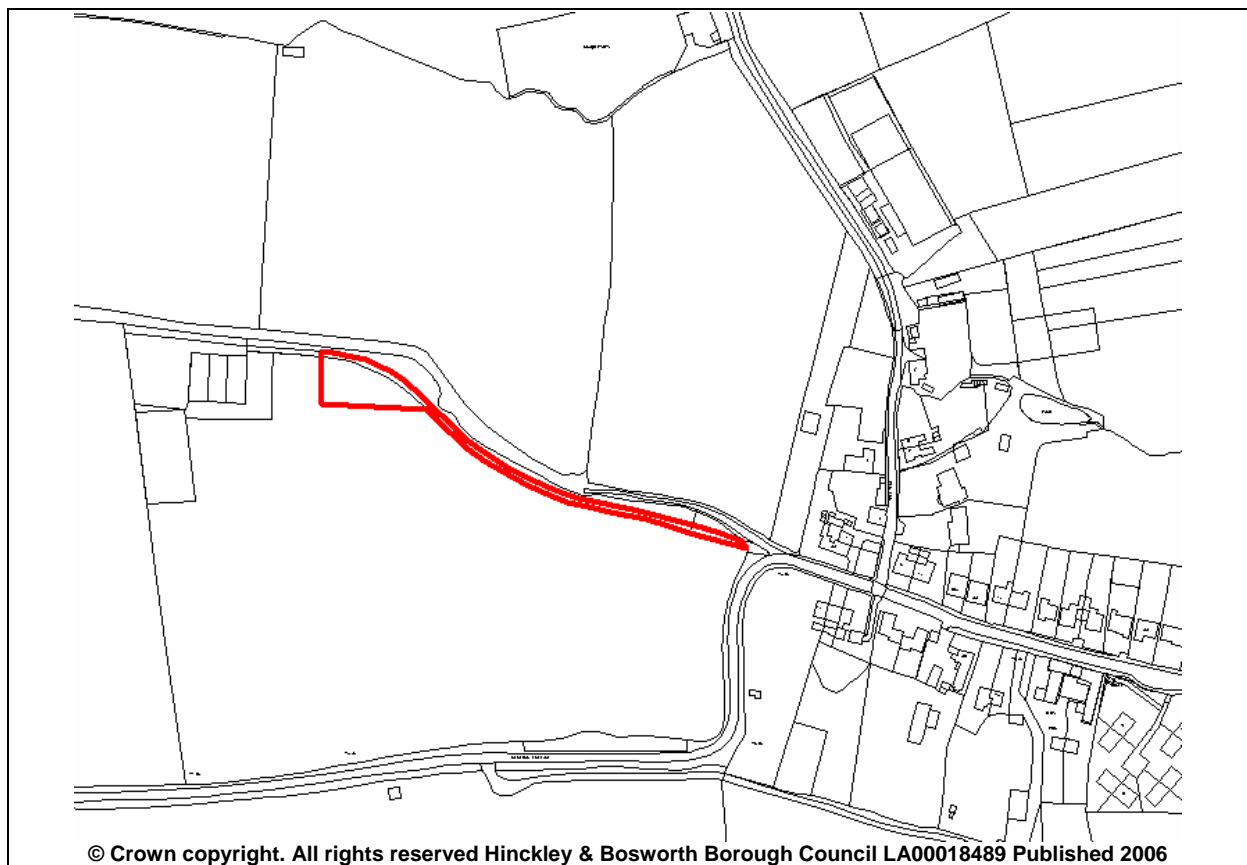
Information submitted with the application confirms that six parking spaces are available within the site in accordance with the requirements of planning permission 08/00700/FUL. A landscaping plan has not been included as it is considered that the existing hedges provide adequate screening of the proposal.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

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

Further information in relation to an incident of animal cruelty in the locality of the site has been submitted by the agent to highlight the security concerns.

History:-

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



Consultations:-

No objections received from:-

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

The Borough Council's Agricultural Appraisal Consultant has commented that application is compliant with PPS7 and therefore raises no objection.

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

Site notice has been displayed and neighbours notified.

Three letters of objection received on the grounds of:-

- a) questions why dwelling is needed
- b) dwellings for sale and rent within village
- c) owner bought land and planned business knowing there was no dwelling with the land
- d) permission could lead to permanent dwelling on site.
- e) outside limits to development
- f) is current access sufficient
- g) is there sufficient land to warrant a dwelling
- h) set a precedent for other stable owners.

Policy:-

Central Government Guidance

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

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

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' sets out the Government's planning policies for rural areas. Paragraph 1 advises that new building development in the open countryside outside existing settlements should be strictly controlled in order to protect the countryside for its intrinsic beauty. Paragraph 10 makes it clear that isolated new dwellings in the countryside require special justification for planning permission to be granted. Further advice is provided in Annex A to PPS7 which states that one of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural and certain other full time workers to live at, or in the immediate vicinity of, their place of work. In assessing planning applications for new dwellings in the countryside Annex A requires a functional and financial test to be applied in order to give consideration to: the nature of the holding and the functional need/necessity for the person to live on site, having regard to the security and efficient operation of the holding, (e.g. if a worker is needed day and night to provide essential care at short notice and deal quickly with emergencies that could otherwise cause serious loss); the financial viability of the holding to sustain the worker in full time employment; the availability of suitable existing accommodation nearby. In addition, the agricultural dwelling should be of a size commensurate with the established functional requirement and be well related to existing farm buildings. Dwellings that are unusually large in relation to the needs of the unit

or expensive to construct in terms of the income it can sustain in the long term should not be permitted. It is the requirements of the enterprise not those of the owner or occupier that is relevant in determining the size of the dwelling that is appropriate.

Local Development Framework

No specific policies.

Hinckley and Bosworth Local Plan 2001

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

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

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

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

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

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

Appraisal:-

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

Principle of Development

Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) seeks to protect the countryside against encroachment. In particular, it states that where special justification for an isolated new house in the countryside relates to the essential need for a

worker to live permanently at or near their place of work in the countryside, planning authorities should follow the advice in Annex A to the PPS.

Annex A states that it is essential that all such applications are scrutinised thoroughly with the aim of detecting attempts to abuse the concession that the planning system makes for such dwellings. Where on-site accommodation is required to support a new activity on a newly created or established unit, this is normally provided in a temporary facility to enable the sustainability of the enterprise to be demonstrated. Paragraph 12 states that applications for such accommodation must satisfy the following criteria:-

- a) clear evidence of a firm intention and ability to develop the enterprise concerned
- b) functional need
- c) clear evidence that the proposed enterprise has been planned on a sound financial basis
- d) the functional need could not be fulfilled by another dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned
- e) other normal planning requirements.

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

Clear evidence of a firm intention and ability to develop the enterprise concerned

The information submitted in support of the application refers to the investment which has already been made towards the establishment of the equestrian enterprise and associated livery business although, without a dwelling on site, it is proving impossible to provide the necessary on site care for animal welfare and security and provide the service expected by their customers. It is stated that the business manager has experience of equestrian activity.

The advice of The Borough Council's Agricultural Appraisal Consultant is the policy test of intent and ability is met.

Functional need

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

The Borough Council's Agricultural Appraisal Consultant comments that the functional test relates to the question as to whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. The need to respond to animals requiring essential care at short notice is cited as an example of such a circumstance. National guidance states however, that the protection of livestock from theft or injury is a contributory factor and will not in itself be sufficient to justify agricultural accommodation, although it may contribute on animal welfare grounds. The application identifies three risk areas: animal welfare, site security and client requirements, which underpin their functional case. It is considered that these are relevant to the consideration of the proper functioning of the enterprise.

The Borough Council's Agricultural Appraisal Consultant goes on to say that ' the background for the management of livery yards is one in which there is, in principle, a functional need for the ready availability of one or more workers responsible for animal welfare. In terms of the provision of that ready availability through on-site residential accommodation, it is necessary to consider the scale and nature of the functional need. Clearly, on-site accommodation would not be permitted to meet the needs of one animal. On the other hand, on the basis of past experience in planning appeal cases, 20 stabled animals have generally been accepted as supporting a need for on-site supervision. At the present time 9 animals are present, the current labour requirement would therefore be 1.7 workers which would rise to in excess of three full time workers should the business expand to its permitted capacity and fully utilise the available stabling for full liveries. On this basis, it is concluded that achieving the development of the proposed enterprise will require the ready availability of a key worker in order that animal welfare requirements are adequately met in accordance with best practice. It is unlikely that the applicants would be able to fully discharge their legal obligations under the Animal Welfare legislation were they to manage the stables from their present residential location. Furthermore, the livery business would be unlikely to be attractive to a significant proportion of the potential client base, and particularly those with higher value animals or those seeking specialist foaling services, in the absence of an on-site presence. The risk is that the business would have a high client turnover rate, especially if there were management difficulties, and associated occupancy rate issues, and be unable to maximise livery charges, therefore, with the view expressed in PPS7 .."...without the requisite safety and security measures provided on site the commercial viability of the enterprise is at risk." '

Clear evidence that the proposed enterprise has been planned on a sound financial basis

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

The information submitted with the application states existing and proposed livestock levels etc. and projected income in order to enable an assessment to be made of the operation and financial viability of the holding in sustaining an occupational dwelling. In terms of paragraph 12 of PPS7, the agent has submitted projected financial information and has already invested in the site to provide 12 of the approved 20 stables, furthermore, information has been submitted detailing the future plans to develop the business including additional equestrian services to be provided at the site.

The Borough Council's Agricultural Appraisal Consultant advice is that there is no definition of financial soundness or viability within the national guidance, however, normal economic assessment of any business would expect a financial performance which provided a reasonable return on resources deployed. Such an assessment accords with the advice given by central government on agricultural dwellings. In the case of newly established enterprises, the intensions of PPS7 is that, after three years start up period, the longer term stability of an enterprise should be capable of being tested. It is implicit that only if financial stability can be demonstrated at that stage, should a continued residential presence be permitted. Consequently, the sound financial planning of an emerging enterprise should anticipate being able to meet a financial test for a permanent dwelling at the end of the three year period. If the enterprise were dependent upon on-site accommodation for its proper functioning, it would be perverse for it to be planned on a basis which did not aim to secure the accommodation after the three year period.

In considering sound financial planning, it is necessary to consider the purposes of the financial testing in the policy guidance in two respects. Firstly, there is an overarching concern that, if the occupational dwellings are to be permitted as an exception to normal

policy of restraint within the countryside, the enterprise should be genuine and capable of being sustained for a reasonable period of time. Secondly, assurance needs to be sought that any permitted permanent dwelling is capable of being funded and sustained by the relevant enterprise. The latter is taken as being the ability of the business to fund the build cost of the relevant dwelling.

It is considered that the proposed enterprise is planned to develop over the introductory period on a sound financial basis. In terms of securing a realistic return for unpaid labour, this is consistent with the financial test in saved development plan policy RES12. The applicant's business plan aims to secure a net profit at the end of the introductory period. The level of profitability would be sufficient to provide return to unpaid labour comparable with the current minimum wage and to fund a modest dwelling.

The functional need could not be fulfilled by another dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned

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

The advice of The Borough Council's Agricultural Appraisal Consultant is that given that the applicants currently reside some 9 kms distance from the site, it is self evident that a relocation to the nearby village would bring management benefits to the enterprise. Enquiries have been made and the properties currently available within the village are clearly not available to the emerging equestrian business in terms of its ability to access them. Therefore, alternative suitable accommodation is unlikely to be realistically available.

Other normal planning requirements

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

The proposed siting has been amended in the current application and is now considered to be an acceptable location, away from the immediate site boundary, the adjacent public footpath and taking into account the topography of the site and the size of the temporary dwelling proposed. Due to the design of the mobile home and the existing hedges to the site boundaries, it is not considered that further landscaping is required by condition at this juncture.

Sustainability

Without special justification in terms of PPS7, the proposed residential development within the countryside would not be considered to comply with the aims of PPS1 in terms of a sustainable form of development.

Neighbour Concerns

Neighbours have raised various concerns, most of which are addressed elsewhere within the report. In terms of highway safety, The Director of Environment and Transport has not objected to the application on the basis of the access being inadequate. With regard to setting a precedent, each application is considered on its own merits and within the criteria of

PPS7. It has not been possible to identify particular dwellings which are available and suitable to fulfil the functional need of the site within the locality.

Other Issues

The agent has referred to saved policy RES12 concerning New Agricultural Dwellings in her planning statement and argues that the policy is relevant to the application. Advice obtained is that the policy is specific to agricultural dwellings and pre-dates the current guidance contained within PPS7, it is therefore irrelevant to the consideration of this application which relates to an equestrian enterprise.

Conclusion

Both central government guidance and adopted Local Plan policies seek to protect the countryside for its own sake. However, permission for a temporary occupational dwelling on the site should be granted if the application is considered to satisfy the tests of PPS7. Overall, it is considered that the application for a temporary dwelling on site satisfies the tests of PPS7 and the application is therefore recommended for approval.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

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

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

- 1 This permission is limited to a three year period from the date of this decision. The mobile home hereby permitted shall be removed and the land restored to its former state on or before 2 March 2010 in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority,
- 2 The development hereby permitted shall be carried out in accordance with the submitted application details, as follows: Site location plan, block plan, log cabin specification and detailed elevations for log cabin received 23 November 2010.
- 3 The occupation of the dwelling shall be limited to a person engaged solely or mainly employed in the business occupying the plot edged red on the attached plan, and any resident dependants.
- 4 Before any development commences full details of the external finishes and colours to the mobile home/log cabin shall be submitted to and approved in writing by the Local Planning Authority. The approved external finishes and colours shall be implemented within two months of the first occupation of the mobile home/log cabin.

Reasons:-

- 1 The site lies within an area where the Local Planning Authority would not normally grant permission for residential development. The temporary period is sufficient to ascertain if the holding can comply with the guidance contained within Annex A of PPS7.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 The site lies within an area of countryside where the Local Planning Authority would not normally grant permission for residential development. And, to avoid the proliferation of new dwellings to accord with Planning Policy Statement 7 and policies RES12 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 4 To ensure that the development has a satisfactory external appearance to accord with policies BE1 and NE5 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The suitability of the ground strata for soakaway drainage should be ascertained by means of a test described in BRE Digest 365, and results approved by Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively, assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
- 6 The septic tank proposal will require the consent of the Environment Agency and must comply with the Agency's conditions.

Contact Officer:- Louise Forman Ext 5682

Item: 05
Reference: 10/00951/COU
Applicant: Mr David Luck
Location: 36 Wood Street Earl Shilton
Proposal: CHANGE OF USE FROM A1 (RETAIL) TO A5 (HOT FOOD TAKEAWAY)
Target Date: 10 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 within the specified period of three weeks from the date of publication of the weekly list.

Application Proposal

This application seeks planning permission for the change of use of 36 Wood Street Earl Shilton from Use Class A1 (general retail) to Class A5 (hot food take-away). Permission is sought to change the use from a shop to a hot food take-away, in this instance a sandwich and snack shop. The proposal includes no changes to the exterior of the shop. Internally the unit will be subdivided into a kitchen area and a shop with serving counter. 36 Wood Street is a mid terrace ground floor commercial property, situated on the northern side of Wood Street, and is currently unoccupied. The unit was last occupied as a general shop and therefore currently has a lawful use as Class A1.

The Site and Surrounding Area

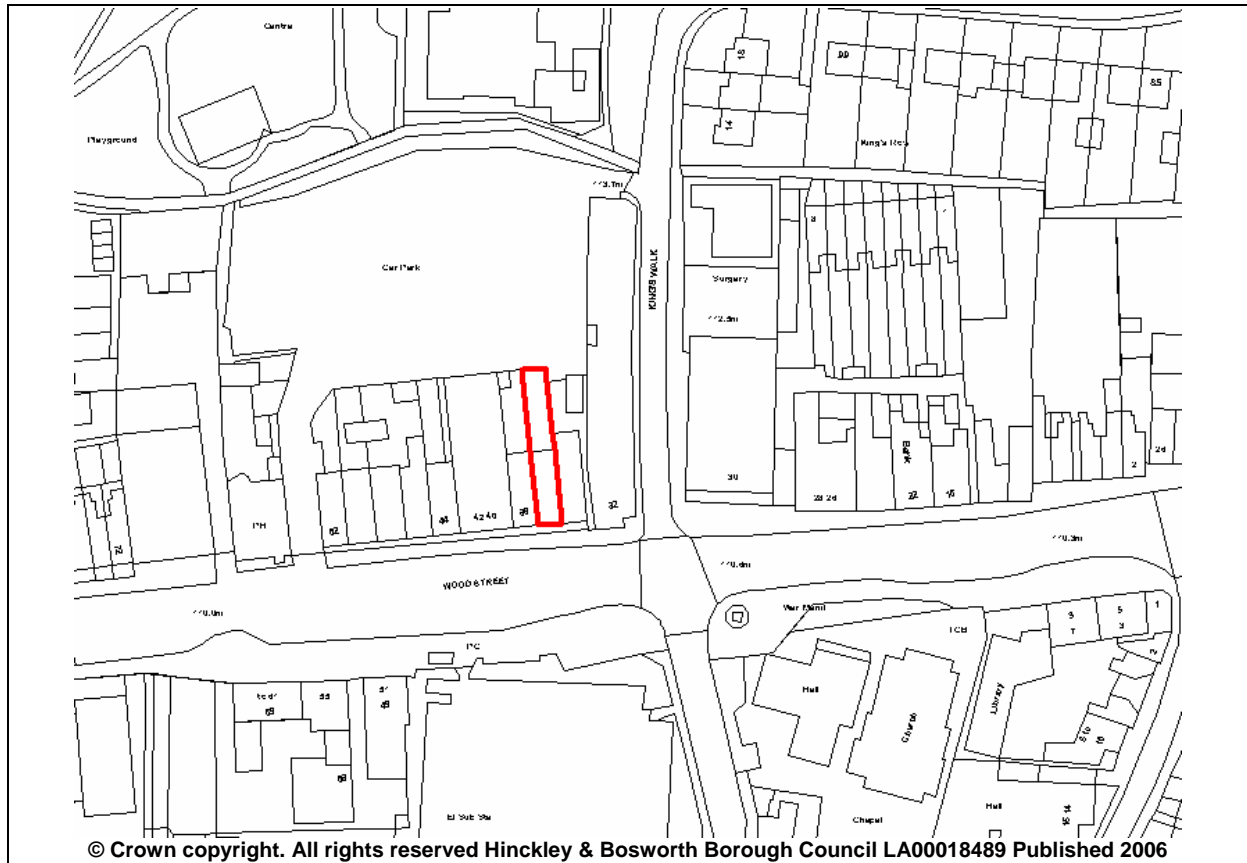
The application site is situated within a row of commercial properties which are predominantly in A1 use at ground floor and have residential accommodation at first floor. To the rear of the unit there is a lobby and WC, and stairs leading to the first floor flat. Beyond this is an enclosed yard. To the rear of the site is a large car park. On the southern side of Wood Street there is a laundrette and a veterinary practice.

Technical Documents submitted with the application

Justification has been submitted with the application that the change of use is required, as within the current economic market A1 uses within this location are not viable. Further, the unit is to be occupied by a takeaway currently situated within the centre of Earl Shilton, in an unsuitable location.

History:-

| | | | |
|--------------|-------------------------------|----------|----------|
| 94/00293/FUL | Erection of Security Shutters | Approved | 23.05.94 |
| 91/00739/4 | Extensions | Approved | 24.09.91 |



Consultations:-

No Objection has been received from:-

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

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

Earl Shilton Town Council do not object to the application, but have commented that operation of the unit be restricted to the hours of 7am to 4pm and that the unit should not be taken over by a late night takeaway.

Seven local residents have submitted the same letter which raises concern over the loss of the retail unit and the proposal resulting in a higher degree of units selling food within the vicinity.

Policy:-

Central Government Guidance

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

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

Regional Policy

The decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010.

Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies.

The government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS's letter of 27 May 2010 and that it should still be regarded as a material consideration.

Judgement was given last week in a second challenge by Cala Homes when the Court held that the SoS's intention to reform the planning system by removing regional strategic planning from it is to be taken into account as a material consideration

In relation to the weight to be given to that intention as a material consideration the Court held that the weight to be given to relevant provisions of Regional Strategies pending the legislative process will be for decision-makers to gauge. Until the end of that process is reached Regional Strategies will remain in place as part of the development plan.

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. There are no specific policies relevant to this application.

Local Development Framework Core Strategy 2009

No relevant policy.

Hinckley and Bosworth Local Plan 2001

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

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

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

Policy RETAIL 7 'Local Shopping Centres' states that planning permission will be granted for retail development in designated local centres subject to specific criteria.

Policy RETAIL 8 'Change from retail use within Local Centres' states that planning permission for change of use will only be granted where the proposed use will not have an adverse effect on the overall retail development of the centre, would not have a seriously detrimental effect on residential amenity, would not have a detrimental impact on highway safety and would not propose to remove an existing shop frontage.

Supplementary Planning Guidance/Documents

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

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

Appraisal:-

The main considerations with regard to this application are the principle of the loss of the shop unit, the impact of the proposed change of use upon residential amenity including odours, noise and disturbance, and highway safety.

Principle of Development

This particular part of Wood Street is a designated Retail area, and thus to be considered acceptable the proposal must meet the criteria stipulated within Policy RETAIL 8.

The first requirement is that the overall retail development within the vicinity will not be adversely affected. Although there is an existing A5 unit within this pavilion of shops, the units are predominantly A1, with one A2 unit and a hotel occupying the corner unit. Accordingly, the overall retail development is not considered to be adversely affected by the proposed change of use.

The second requirement is that residential amenity should not be adversely affected. In terms of disturbance caused by vehicular movements, as there is a large car park to the rear of the site and due to the sites position of a main road, the change of use of this unit to A5 is not considered to give rise to any further disturbance caused by vehicles. As the unit will be used for food preparation, a condition requiring suitable ventilation has been requested by the Head of Community Services (Pollution), to minimise any adverse impacts of odours on the amenity of the first floor residential flats.

As the area is classified as retail, a degree of noise, disturbance and litter is expected; despite the change of use proposed, levels of the above will not, it is considered, rise to an unacceptable degree given the small scale of the operation.

The third stipulation is that there are no adverse impacts in terms of highway safety. Given the town centre location of the premises and that there is a large parking area to the rear, access to the site and provision of car parking is considered sufficient for the use proposed. Thus there will be no adverse impacts in terms of highway safety.

The final requirement is that shop frontages are not lost. In this case, as no external changes are proposed, there will be no loss of shop front. Based on the above the proposal is considered to comply with policy RETAIL 8 and thus in principal is acceptable.

Impact upon Residential Amenity

The change of use could result in a degree of odour, noise and disturbance to neighbouring properties.

In respect of odour it is considered that a suitable ventilation system, to reduce transfer of odour would prevent unacceptable impacts to neighbouring residential properties. As no details of an extraction system have been submitted with the application, a condition requiring the submission of details will be imposed.

Some noise and disturbance will be created by comings and goings from the application site. However as the proposed use will have controlled operation, between the hours of 7am and 4pm, and as the site is located within a promenade of shops, the level of disturbance will be no greater than at present, therefore it is not considered that any noise generated by trips to and from the application site would result in additional noise and disturbance to a level that would warrant a refusal of planning permission.

Other Issues

Seven letters of objection have been received; these raise concerns over the loss of a retail unit and the increased number of units selling food.

Policy RETAIL 8 seeks to prevent the loss of retail units, in order to safeguard the vitality and vibrancy of an area, and to reduce the number of 'dead' frontages. In this case, although the application would result in the loss of a retail unit; due to the end occupier proposed, and the fact the unit will operate during the day, as oppose to the evening, (as is the case with most A5 uses), it is considered that the vitality and vibrancy will be maintained, and as there no changes proposed to the shop frontage, a 'dead' frontage will not occur. The objections also raise concern over the increased numbers of establishments selling food within Earl Shilton. A survey conducted by the case officer, of the uses of the surrounding units indicates that there is only one other A5 unit within close proximity to that proposed, and this operates during the evening. Other A5 uses are a sufficient distance from the application site; thus having little impact on the vitality or mix of uses within the area. Accordingly there is not considered to be an over concentration of uses within the locality.

Conclusion

In conclusion it is considered that the proposal would not result in an unacceptable highway safety issue, or have a detrimental impact on residential amenity, subject to a suitable ventilation system, and will not have a material impact upon the vibrancy or vitality of the area. Accordingly it is considered that the proposal accords with Policies BE1, RETAIL 7 and

8 and T5 of the adopted Hinckley and Bosworth Local Plan and is therefore recommended for approval.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. Resultant of the specific use proposed and the hours of operation, there are considered to be no material impacts on residential amenity, highway safety or on the vitality of the local shopping area. Accordingly the scheme is considered acceptable.

Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, T5, RETAIL 8

- 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 be carried out in accordance with the submitted application details, as follows: Plan Ref:- 'Existing Ground Floor Plan' received by the Local Planning Authority on the 1 December 2010.
- 3 No development shall take place until a scheme for ventilation of the premises, which shall include installation method, maintenance and management has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details before the premises are first brought into use and maintained thereafter.
- 4 The premises shall not be open to the public for the use hereby approved outside the hours of 7am to 11.30pm

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 the development does not have any adverse impacts on the amenities of surrounding properties in terms of odour and noise to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 4 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

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

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

Contact Officer:- Eleanor Shaw Ext 5691

Item: 06
Reference: 10/00980/FUL
Applicant: Mr Frank Downes
Location: 9 Spa Lane Hinckley
Proposal: ERECTION OF FIVE DWELLINGS
Target Date: 3 February 2011

Introduction:-

Members may recall that this application was deferred at the last committee on 1 February following the submission of a late item on behalf of the applicant.

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

Application Proposal

Full planning permission is sought for the erection of five two storey, four bed detached dwellings. 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 occupied by a tennis court which has been used in conjunction with 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, and 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). The existing use of the application site is described by the applicant within his submission as being orchard/garden.

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 of the scheme upon 2 no. Willow trees overhanging the east boundary, officers requested that the applicant submit a Tree Survey and Tree Protection Plan. An Arboricultural report has been submitted, complete with a plan depicting the location of the two trees. The Arboricultural report describes the status and condition of the two white willow specimens and states that the developed root systems will impact into the proposed development to the some extent and sets out the recommended standards of construction and barrier fencing. Re-consultation was undertaken with the Head of Corporate and Scrutiny Services (Tree Officer).

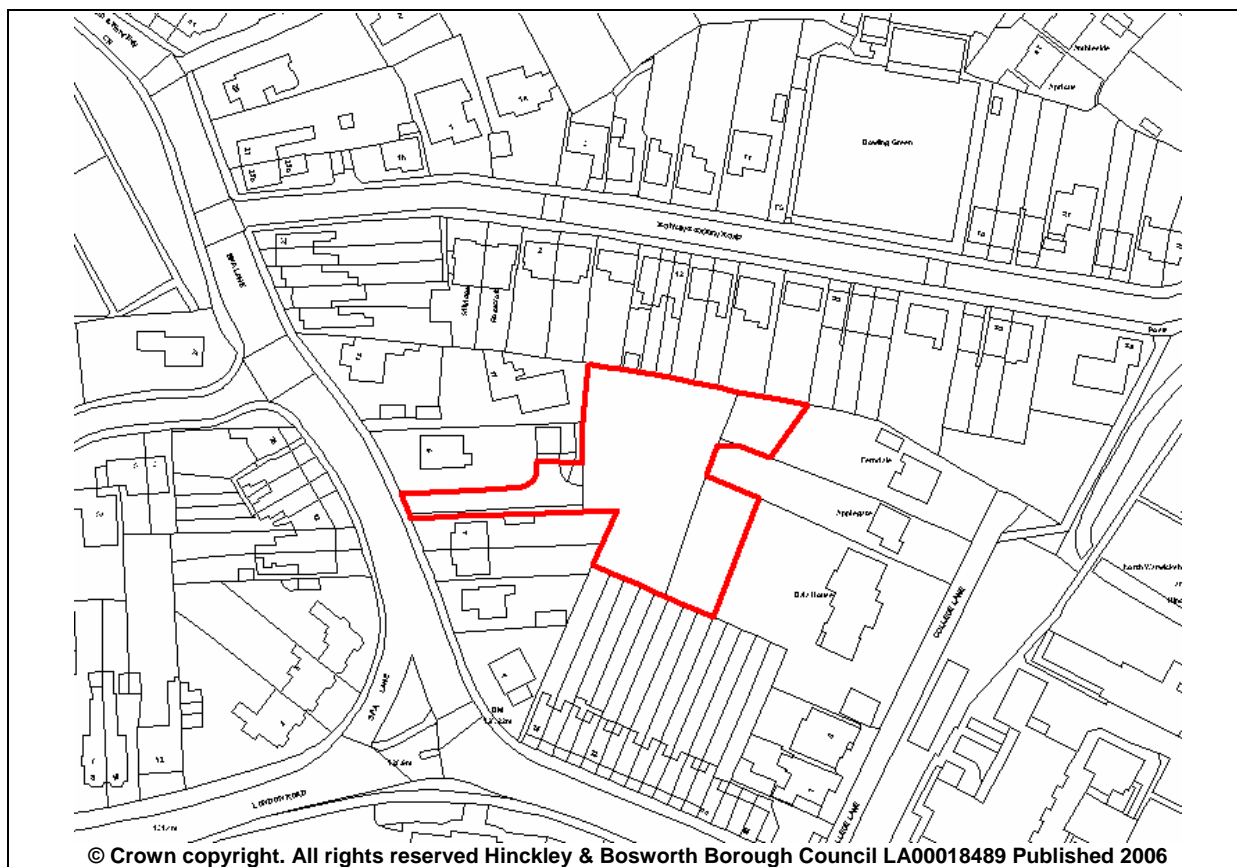
Following the publication of the previous committee report a further letter has been received by the applicant which comments as follows:-

- The site lies within the settlement boundary of Hinckley where development is acceptable subject to design and layout. It is held that the proposed development does complement the existing character in line with Policy BE1 of the Local Plan.
- Contributions towards infrastructure in line with policy IMP1 of the Local Plan can be secured through a Section 106 planning obligation if permission is granted.
- Changes to PPS3 regarding garden land does not mean all sites which form garden land are automatically Greenfield land. Due to the hardstanding on the site the site falls to be considered as brownfield.
- The Local Authority cannot demonstrate an up to date five year land supply and as such the Borough Council should consider favourably this planning application as it is in accordance with the criteria in paragraphs 69 and 71 of PPS3.
- The guidance comments contained within the SPG on new residential development would be supportive of the proposed development.
- The requirements of Policy 24 of the Core Strategy could be dealt with by conditions.

History:-

| | | | |
|-------------------|---|----------|----------|
| 94/00067/FUL | Alterations and Extensions | Approved | 01.03.94 |
| 93/00788/4 | Erection of Double Garage | Approved | 13.10.93 |
| 91/01026/4 | Alterations and Extensions to Dwelling | Approved | 02.12.91 |
| 89/00693/4 | Alterations to Existing Residence | Approved | 07.07.89 |
| 82/00527/4 | Alterations to house for new bedroom and bathroom | Approved | 30.06.82 |
| 71/5407 (Outline) | Erection of 4 Dwellings and formation of Access | Approved | 14.07.72 |

This Outline planning permission was granted for four 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:-

Environment Agency
Head of Community Services (Pollution).

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 Head of Corporate and Scrutiny Services (Tree Officer) states that whilst protective barriers have been recommended, the size of the Root Protection Areas has not been specified and that the Arboricultural report provides limited observations and does not comply with BS 5837:2005. The canopy of T1 (adjacent to plot 3) will extend to within 2.2 metres of the dwelling proposed and stem position of T2 is shown at 10 metres from the rear elevation of plot 4, with a 6 metres radial crown spread extending to within 4 metres of the rear elevation and half way across the rear garden and as such considers that the proposed distance between the proposed dwellings and the existing trees is insufficient.

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 compliments 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.

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In relation to the weight to be given to that intention as a material consideration the Court held that the weight to be given to relevant provisions of Regional Strategies pending the legislative process will be for decision-makers to gauge. Until the end of that process is reached Regional Strategies will remain in place as part of the development plan.

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.

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.

Other material guidance

The Green Space Strategy confirms that Queens Park local open space falls within 400 metres of the site and as such would attract a contribution from this development.

Appraisal:-

The main considerations in the determination of this application are the principle of development, five year land supply, impact on the character of the area; layout and design, 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 comprises garden land and would prior to the update to PPS3 have fallen into the category of brownfield land, however the update to PPS3 removed garden land from the 'brownfield' land classification. It is considered that where development is proposed on garden land within the defined settlement boundary the 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 compliments 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 and development that is out of keeping with the character of the surrounding area.

Five Year Housing Land Supply

The Council currently does not have a five year housing supply with the shortfall being 477 dwellings as of October 2010 and as such this is a material consideration that should be given weight in the determination of this application. Paragraph 71 requires that where local authorities do not have a five year land supply proposals should be given favourable consideration with regard to the other policies within the guidance and in particular paragraph 69. This states that in deciding planning applications, Local Planning Authorities should have regard to a number of factors including 'ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives.'

The spatial vision for the area is defined through the policies within the Local Plan, in this case Policies RES5 and BE1 are relevant. Policy RES5 states that planning permission will only be granted for new residential development if the site lies within the settlement boundary and the siting, design and layout of the proposal does not conflict with the relevant plan policies. The site is in the settlement boundary and therefore there is a presumption in favour of development subject to the other plan policies. It then falls to consider the proposal against policy BE1 which seeks to ensure development complements or enhances the character of the surrounding area. It is on this basis that the proposal is assessed when considering whether the criteria in paragraph 69 of PPS3 is met and this is explored under siting and layout in this report.

Impact upon character of the Area; Layout and Design

As discussed above it falls to consider whether the proposed development would have an adverse impact upon the character and appearance of the area. The site is currently open in appearance and therefore 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 alter the open character of the site.

The current pattern and grain of the development in the immediate locality is development situated on road frontages, there is only one plot to the north west of the application site that is development at depth (No 11 Spa Lane). 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 also form frontage development. In addition, the area to the east is characterised by large detached dwellings in large plots, which again form frontage development. With the exception of No 11 Spa Lane the defining character of the area is largely a mix of dwelling types set within varying plot sizes but all comprising frontage development.

The proposed dwellings constitute backland development, which have no frontage onto the street at any point. Therefore the scheme would result in development that is clearly not characteristic of the surrounding area.

Furthermore, it is considered that 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, 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, and the Council's SPG on New Residential Development. On this basis it is not considered that the proposed development would be in accordance with the spatial vision of the area which is to complement or enhance the character of the surrounding area and is therefore contrary to Paragraph 69 of PPS3 notwithstanding the lack of 5 year land supply.

Design

Each of the five dwellings of two storey proportions are individually designed with a mixture of architectural features such as projecting gables, dormer windows and porches. This adds character and interest to the elevations, reflecting the range of character of the surrounding dwellings. The design approach is therefore considered acceptable.

Residential Amenity

There are three windows proposed in the rear elevation of plot 1 serving bedrooms and given the proposed dwelling's physical relationship with No. 11 Spa Lane there would be an element of overlooking upon the dwelling and rear amenity space. However, it is considered that given the angle and distance between the two dwellings that there would not be any significant direct overlooking from all bedroom windows over and above that expected from dwellings within built up areas.

Plot 1 would be located approximately 28 metres from the rear of No.9 Spa Lane, with plots 1 and 2 sited at a minimum of 23 metres from the rear of the dwellings along Bowling Green Lane. In terms of plot 3, there is a distance of some 20 metres between the dwelling and neighbouring dwellings along Bowling Green Lane, with at least 25 metres from the neighbouring 'Ferndale' along College Lane. The nearest residential dwelling to plot 4 would be Bala House located some 25 metres away. There is approximately 35 metres between the proposed plot 5 and dwellings along London Road properties.

The Council's SPG on New Residential Development seeks a minimum distance of 25 metres between principal windows of habitable rooms to similar windows in neighbouring dwellings. Whilst not all plots are able to adhere to the 25 metres, it is considered that the dwellings would not result in any significant overlooking, overshadowing or overbearing impacts, over and above that expected from dwellings within built up areas.

Given the proposed distances, it is considered that there would not be any significant detrimental impacts upon residential amenity to sustain a refusal for permission on this basis.

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 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.

Following the submission of the Arboricultural Report, the Head of Corporate and Scrutiny Services (Tree Officer) states that whilst protective barriers have been recommended, the size of the Root Protection Areas has not been specified and that the Arboricultural report provides limited observations and does not comply with BS 5837:2005. The canopy of T1 (adjacent to plot 3) will extend to within 2.2 metres of the dwelling proposed and stem position of T2 is shown at 10 metres from the rear elevation of plot 4, with a 6 metres radial crown spread extending to within 4 metres of the rear elevation and half way across the rear garden and as such considers that the proposed distance between the proposed dwellings and the existing trees is insufficient.

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. It is considered that the Arboricultural report has failed to demonstrate that the willow trees would not be adversely affected as a result of the proposed scheme and it is therefore considered that a reason for refusal can be sustained.

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. Should however the application be refused a further reason for refusal is recommended.

Conclusion

In conclusion, PPS3 states that where local authorities cannot demonstrate a 5 year land supply proposals should be considered favourable with regard to other policies and paragraph 69. In this respect it is necessary to ensure proposals are in line with the spatial vision for the area. The spatial vision for the area is provided by Policy RES5 and BE1 of the Local Plan, whilst RES5 allows for development within the settlement boundary it requires that the siting, design and layout of the proposal does not conflict with other relevant plan policies. In this regard the criteria of Policy BE1 is considered relevant, this requires developments to complement or enhance the character of the area. As discussed above, by virtue of the backland nature of this development in an areas that is predominantly frontage development it is considered that the proposal is out of character and would not complement or enhance the character of the area. Furthermore, the proposed layout of the 5 dwellings in the former garden area 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, Policy BE1 of the adopted Local Plan, which would consequently make the scheme contrary to Policy RES5 of the adopted Local Plan.

Given the identified harm to the character of the area, the relatively small number of dwellings (5.no) provide it is considered that the lack of 5 year land supply should not form overriding justification in favour of the development.

RECOMMENDATION :- REFUSE, for the following reasons :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Reasons:-

- 1 In the opinion of the Local Planning Authority, the proposal constitutes a form of development that does not complement or enhance the character of the surround area by virtue of the loss of open character and the introduction of the backland positioning of the dwellings in an area that is predominantly frontage development. 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 opinion 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 which if lost would have an adverse impact upon the character of the area, 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: 07

Reference: 11/00015/FUL

Applicant: Mr Dave Clayton

Location: Caterpillar Uk Ltd Peckleton Lane Desford

Proposal: CONTINUED USE AND SITING OF A CARBONACEOUS LIVE FIRE TRAINING UNIT

Target Date: 14 March 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: 10/00040/FUL) was approved for the installation of a carbonaceous live fire training unit, for the period of one year at committee in March 2010. This is an application to seek full planning permission for the continued site of the carbonaceous live fire training unit.

The application seeks to continue the use of the three shipping container style units arranged in an 'H' shape to the north east of an existing building, and two smaller units, measuring 5.9 metres by 3 metres and a height of 2.3 metres, sited to the north west of the 'H' block, providing storage for the materials to be burnt in one and a room scenario in the other. The units forming the 'H' block measure 12 metres by 12 metres and stand 3.3 metres high. A third unit, 3 metres square with a height of 2.3 metres, is located adjacent to the existing warehouse which would have a power supply in which to charge the breathing equipment used in the training exercises.

The units provide a training facility for Leicestershire Fire and Rescue. The unit is used to demonstrate how fires behave in certain circumstances and teach fire officers how to deal with the different scenarios. Fires are be lit in the containers and vents control how the fire

behaves allowing operators to simulate different conditions officers may face when tackling real life situations.

The Site and Surrounding Area

The containers are sited on a piece of land located in the Caterpillar compound at the northern side, on an existing area of hard standing. There is a large warehouse building located to the south west of the application site with other buildings that form part of the Caterpillar complex to the south of the site. The siting of the units are separated from the edge of Desford by an area of open space. The nearest residential property is located due east of the application site, approximately 250 metres in distance. Other properties forming the edge of the main built up area of Desford are located 330 metres to the north. Caterpillar is located within a designated employment site, outside the settlement boundary of Desford, as defined by the adopted Hinckley and Bosworth Local Plan (2001).

Technical Documents submitted with application

The application is accompanied by a Design and Access Statement which states that during its operation within the last year Leicestershire Fire and Rescue have made attempts to inform local residents and members of the public by:-

- a) Making presentations to Desford Parish Council
- b) Notifying residents of the facility by dropping leaflets and inviting residents to attend the facility
- c) Leaflets displayed on parish council notice boards
- d) Parish council and local residents have attended a demonstration
- e) Providing local residents with contact details should they have any complaints
- f) Provided direct responses following concerns raised by residents
- g) Signage has been erected along the bridleway
- h) Providing the parish council with dates of the training dates
- i) Updating their website with dates of the training.

Following concerns raised by officers in respect of the lack of information regarding times and frequency of burns, the applicant has provided the following information and re-consultation has been undertaken:-

- a) Days of use are programmed to Tuesdays, Thursdays and Saturdays (currently there is a regular use of Saturdays to utilise the time however this would be on a more occasional basis if subsequent planning is successful). Saturday use will be necessary predominantly to train retained staff over a maximum of 30 days per year;
- b) No burning will take place on a Sunday, following comments received by local residents;
- c) The morning exercise will take place between 12:00 – 13:30 and will involve a 45 minute burn. The afternoon exercise will take place between 14:30 – 16:00 and will again involve a 45 minute burn. The actual start time is dependent upon such factors as weather and time of arrival of students. If students arrive after 09:30, training is cancelled due to being unable to comply with local authority restrictions;
- d) Orientated Strand Board is burnt, comprising of 92.5% virgin wood flake, 2.5% resin, 1% wax and 4% water. As the board is ignited with use of a mobile gas burner, the nominal composition of the gases given off (from the clean wood and board) are water vapour, carbon monoxide, carbon dioxide, formaldehyde <0.13mg/m³air ; also listed in some text and as taught at the Fire Service College: Butane, Ethane, Methane and Propane.

The information provided also states that the Fire Service does not expect any changes to the burning during the spring and summer months and has never indicated that it would be necessary to close windows. The days of possible burns are notified on the website and the

morning and afternoon exercise times will now also be included along with an updated sign to the bridle way. The current restrictions imposed allow the fire service to meet their Health and Safety obligations to their operational staff and also to maintain the professional competencies expected of Fire Fighters. The information also stated that the Fire Service has a long term commitment to this facility and therefore wish to maintain good working relationships with Caterpillar and the local residents.

History:-

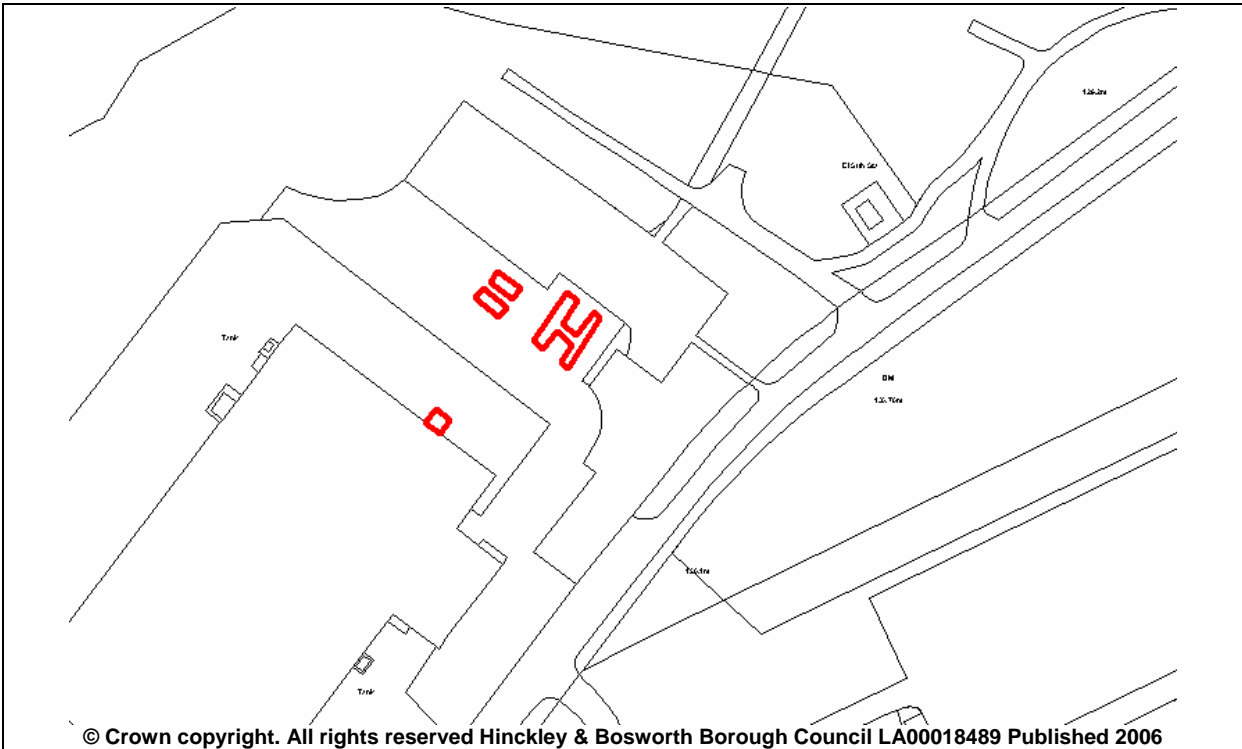
An Enforcement enquiry (ref: 10/00209/BOC) for the breach of Condition no. 3 attached to planning permission 10/00040/FUL in relation to notification of the local community and not being used at the agreed time, is still pending and is dependent upon the decision of this application.

| | | | |
|--------------|--|----------|----------|
| 10/00040/FUL | Installation of a carbonaceous live fire training unit | Approved | 17.03.10 |
| 09/00476/FUL | Installation of a carbonaceous live fire training unit | Refused | 17.08.09 |

Caterpillar benefit from numerous planning applications granted to enable the site to adjust to changes to manufacturing processes.

The scheme was refused in August 2009 (ref: 09/00476/FUL) due to insufficient information to demonstrate that the proposal would not harm the amenities of nearby residents. Since this refusal the Head of Community Services (Pollution) visited a similar training unit located at Birmingham International Airport and has liaised with the applicants to understand the impact the use may have.

Since the approval of planning permission (ref: 10/00040/FUL) the Head of Community Services (Pollution) has also visited the site during a live fire demonstration.



Consultations:-

No observation has been received from:-

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

The Head of Community Services (Pollution) is still concerned that the proposal could impact on local residents through smoke/odour and as such has recommended an additional 12 month period to monitor the impact from the development over the sensitive spring and summer months. Following re-consultation, the Head of Community Services (Pollution) has requested conditions for temporary permission, restriction of Saturday burnings to once a month and monitoring of burn time conditions.

Site notice and press notice were displayed and neighbours notified.

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

- a) impact on health; inhalation of smoke
- b) impact on the environment and wildlife
- c) strong smell
- d) black particles raining down on Oak View
- e) too close to junior school, park and highway
- f) too close to the village and impact on village life
- g) will be unable to go outside on a Saturday afternoon
- h) smoke not dispersing as originally stated; the Fire and Rescue Service has claimed that the smoke would be dissipated between 10-15 metres from the unit but now clearly affects the bridleway
- i) smoke affecting recreational activities at the park and people using the bridle path
- j) no Environmental Impact Assessment
- k) unreasonable to close windows
- l) no times of burning are displayed; failure to notify residents
- m) 4 days out of 7; 2 of which are at the weekend
- n) manipulation of facts; the Fire and Rescue Service has mis-lead the Local Authority as well as the residents as to the amount of smoke produced as well as the environmental effects
- o) breach of conditions; not keeping to scheduled burning times; failure monitor the effects; have not received a penalty or restriction
- p) other authorities have refused to allow carbonaceous burning due to the pollution caused and so there is legal precedent for refusal on environmental grounds
- q) no restriction to the frequency; restrict burning to week days and not allow on weekends
- r) 30 Saturdays is more than half the year and would create an unacceptable burden on the local residents
- s) approval should be temporary.

Desford Parish Council have received some complaints from residents which include smoke drifting across the bridleway and Peckleton Lane and reports of carbon deposits within residential gardens close to the vicinity. Desford Parish Council state that the Fire Service obviously recognises that the smoke will drift across these areas as they have erected notices. They find it unacceptable that the use of a public right of way may be restricted to both residents and visitors to the Parish whilst the facility is in use and that the public footpath should pose no risk to any users health or safety. The Parish Council state that should planning permission be granted that the current schedule of live burns is adhered to and not increased and that it should be restricted to a one year period to enable a full year of monitoring by an Environmental Health Officer.

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

The consultation period remains open at the time of writing and closes on 4 March 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 23 (PPS23): 'Planning and Pollution Control' sets out national planning guidance on pollution of land, air and water.

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.

Judgement was given last week in a second challenge by Cala Homes when the Court held that the SoS's intention to reform the planning system by removing regional strategic planning from it is to be taken into account as a material consideration

In relation to the weight to be given to that intention as a material consideration the Court held that the weight to be given to relevant provisions of Regional Strategies pending the legislative process will be for decision-makers to gauge. Until the end of that process is reached Regional Strategies will remain in place as part of the development plan.

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

Local Development Framework: Core Strategy 2009

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

Hinckley and Bosworth Local Plan 2001

Policy EMP1 considers existing employment sites throughout the borough. The Caterpillar site falls under criterion a) of the policy which seeks to retain these sites for employment purposes.

Policy BE1 considers the design and siting of development and seeks development that safeguards the existing environment, complements the character of the surrounding area, and does not adversely affect the occupiers of neighbouring properties.

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

Policy NE5 considers all development within the countryside and seeks to protect the countryside for its own sake however supports development where it is important for the local economy and cannot be provided within or adjacent to existing settlements, and where it would not have an adverse impact on the appearance or character of the landscape.

Other Material Policy Documents

The Employment Land and Premises Study undertaken in May 2010 identifies Caterpillar as a key/flagship employment area which it seeks to retain for employment uses.

Appraisal:-

The main consideration with regards to this application are the impacts of the development on the amenities of nearby residents and also the visual impact of the proposal on the character and appearance of the surrounding area.

Impact upon Residential Amenity

The unit is used to train Fire Officers in how to deal with different scenarios they might face when attending fire emergencies. To do this fires within the units must be lit and smoke is expelled into the surrounding environment through vents designed to control airflow through the containers to create different fire scenarios. Some pollution does therefore occur as a result of the proposal, however how much material harm this will cause is influenced by a number of factors including the distance of the development to residential properties, strength and direction of the wind at the time of burning, number and duration of burnings and any landscape features between the proposal and residential properties.

The nearest residential dwelling most immediately affected as a result of the proposal would be Oak View, Peckleton Lane located approximately 250 metres away to the east of the application site. Other properties forming the edge of the main built up area of Desford are located 330 metres to the north. Separating the application site and these properties is an open space with planting and a small bund adjacent to Peckleton Lane.

It is considered that the distance between the proposal and the nearest residential properties will allow for the majority of the smoke to disperse naturally, with the area of planting assisting in the dispersal of smoke blown in this direction. However, it is considered that this is largely dependent upon the strength and direction of the wind at the time. It is considered that for the smoke to carry to the residential properties there would have to be strong southerly or westerly wind blowing at the time of the burning. It is unlikely that this will occur during every burning, and therefore whilst there may be occasions when smoke is thick enough to cause a nuisance to nearby properties, it is not considered, given the proposed

two to three burnings a week that this would be material enough to warrant a refusal of planning permission at this time.

The Head of Community Services (Pollution) states that whilst the original permission was granted for a 12 month period to monitor the impact from the development on the amenities of local residents, the unit has only been in operation for a period of 5 months prior to the re-submission. As such monitoring over the sensitive spring/summer months when people are more likely to have windows open or use the external areas of their premises has not been assessed.

The Head of Community Services (Pollution) recommends that consideration should be given to extending the temporary permission so that the impact from a full year's operation can be monitored and recommends conditions for restricting Saturday burnings to once a month and monitoring of burn time conditions. Accordingly, the grant of a temporary consent is considered appropriate in this instance, subject to the imposition of the requested planning conditions.

The Head of Community Services (Pollution) has received two complaints since operation began relating to the impact on the adjacent bridle way.

Visual Impact on Character and Appearance of the Area

The application site relates to a small section of an existing industrial complex occupied by Caterpillar which consists of a number of large industrial warehouse buildings with associated areas of hard standing between them. The site contains other shipping and portacabin type accommodation, providing temporary and flexible accommodation. Due to its location and association with the Caterpillar site, it is considered that the proposed buildings required for the fire training facility would not be out of character with other buildings on the site. It is therefore considered that the proposed development would not have an adverse visual impact on the character and appearance of the area.

Other Issues

The proposal will help Fire Officers train to deal with fire scenarios so that they minimise the risk to themselves and others in the event of a real emergency. To comply with Government Legislation governing the training of Fire Officers, training facilities as proposed are required within easy reach of the force using them. It is considered that the proposal provides a valuable community service. The Head of Community Services (Pollution) also stated that it should be noted that identical training facilities are available for use in the West Midlands and so the training need can be met elsewhere. However, this is more resource intensive for the Leicestershire Fire Authority and so a Leicestershire based facility is preferred.

Objections have questioned why an Environmental Impact Assessment (EIA) was not required. The requirements for submission of an EIA are set out within Schedule 1 and 2 of the Environmental Impact Regulations. This application falls below the thresholds within both schedules and therefore no assessment is required.

The application is located within a designated Employment site. It does not affect the employment use of the site and is still controlled by Caterpillar. It is not considered that the proposal would restrict the employment capabilities of the site and would therefore be considered acceptable.

Conclusion

Whilst there are concerns expressed regarding the effect of the smoke and fumes likely to be generated by the proposal on the nearby residents, given the specific way in which the unit is to be operated it is considered unlikely that, the use would detrimentally impact upon neighbouring residents on a regular basis. However, it is recommended that the proposal be granted an additional temporary permission for a twelve month period in order that any impacts can be adequately monitored and assessed, particularly over the sensitive spring/summer months.

RECOMMENDATION : - That subject to no significant material observations being received by the end of the consultation period expiring on the 4 March 2011, the Deputy Chief Executive (Community Direction) shall be granted delegated powers to grant planning permission for the development subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the 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 its limited use, distance from nearby properties and appropriate appearance, the proposal would be in accordance with the development plan.

Hinckley & Bosworth Borough Council Local Plan (2001):- EMP1, BE1, NE2, NE5.

Hinckley & Bosworth Borough Council Core Strategy (2009):- Spatial Objective 1.

- 1 The use and buildings hereby permitted shall be discontinued and the land restored to its former condition on or before 5 March 2012 unless a subsequent planning application for its retention is submitted and approved by this date.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: CAT/P/09/101 A received 17 January 2011.
- 3 The use of the development hereby permitted shall be undertaken on Tuesday, Thursdays and a maximum of one Saturday per month. Burning shall not be undertaken on a Sunday.
- 4 The use of the development permitted shall be carried out for a maximum of one hour per burn, two times per day between the hours of 12:00 to 13:30 and 14:30 to 16:00 on the days already specified (Tuesdays, Thursdays and Saturdays).
- 5 All burning shall cease before 16:00 on Tuesdays, Thursdays and Saturdays.
- 6 The Fire Service will keep a log of the weather conditions on the days that the burnings occur detailing start and finish times for each session and wind direction/speed. The log shall be available to view within 36 hours if requested by the Local Authority.
- 7 The Fire Service will inform the parish council and caterpillar community liaison group of the upcoming training dates.

Reasons:-

- 1 To enable the impact of the use to be monitored during this period to ensure that the proposal does not detrimentally affect the amenities of nearby residents in accordance with Policies BE1 and NE2 of the adopted Hinckley and Bosworth Local Plan.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3-5 To mitigate any impact of the proposal on the amenities of local residents in accordance with Policies BE1 and NE2 of the adopted Hinckley and Bosworth Local Plan.
- 6 To enable the impact of the use to be monitored during this period to ensure that the proposal does not detrimentally affect the amenities of nearby residents in accordance with Policies BE1 and NE2 of the adopted Hinckley and Bosworth Local Plan.
- 7 To inform the parish council and local residents of the development to ensure that the proposal does not detrimentally affect the amenities of nearby residents in accordance with Policies BE1 and NE2 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Ebony Mattley Ext 5691

Item: 08

Reference: 10/00923/FUL

Applicant: Mr Jack Fargher

Location: Castell Playing Field Marina Drive Groby

Proposal: FORMATION OF A BMX TRACK, ERECTION OF A SHELTER AND ALTERATIONS TO EXISTING CAR PARK

Target Date: 14 March 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, because it involves new development for recreation and leisure uses involving public open space.

Application Proposal

This application seeks full planning permission for the erection of a BMX track, youth shelter and the improvements to the existing car park at Marina Park (also known as Castell Playing Field).

The proposed BMX track is to be located to the south of the existing car park and play area, it will have overall dimensions of 47 metres by 25 metres with a maximum height of 1.9 metres, it will be formed of imported clay and surfaced with clean stone finished with 20mm to dust. The start hills and corners will be surfaced with tarmac. The area around the track will be reinstated with topsoil and grass seeded.

The youth shelter is located between the car park and the proposed BMX track. It has dimensions of 2.3 metres by 3.9 metres maximum width and a maximum height of 2.4 metres. It is constructed of circular metal posts and with a sheet metal roof, metal seating is provided on 3 sides.

The works to the car park involve the repair and infill of pot-holes, new edge kerbing, resurfacing with a base course and stone mastic asphalt top coat and white lining finish. The resurfacing will raise the existing level by 90 mm.

There is no lighting proposed as part of this application.

The Site and Surrounding Area

The application site occupies part of the north eastern corner of the wider Marina Park which is owned by Groby Parish Council. The site is located within the Groby settlement boundary. The wider park is bounded to the south east by Sacheveral Way (A46). To the north and west, the site is bounded by residential dwellings whose rear gardens border the wider site.

Technical Documents submitted with the Application

A Design and Access Statement has been submitted in support of the application. It says that the BMX track is a facility for the community and will be accessible to everyone, it will

compliment other recreational facilities at the site and in the village more generally. The track will be in four parallel straights with a turn at each end providing 200 metres of track with a width of between 3 and 6 metres at different points along its length.

The development will provide a venue for BMX cycling in the village for the local community and will help to improve the physical well being of users. The siting has been chosen close to the children's play area, and informal football pitch and the disused cycle track, which is intended to be re-instated with grass and tree planting. No trees or shrubs will be affected by the proposals.

A youth shelter is proposed adjacent to the proposed track. The statement says that the shelter will provide a focal point and offer protection for users of the track and visitors during inclement weather.

The statement goes on to say that there is ample car parking provided within the site. The proposal includes the improvement to the existing car parking facilities in the form of repairs to pot-holes, new kerbing, resurfacing and white lining. Access to the site is unchanged by the proposals and the car park is fitted with a gate and height barrier to ensure no unauthorised access outside of the published opening hours.

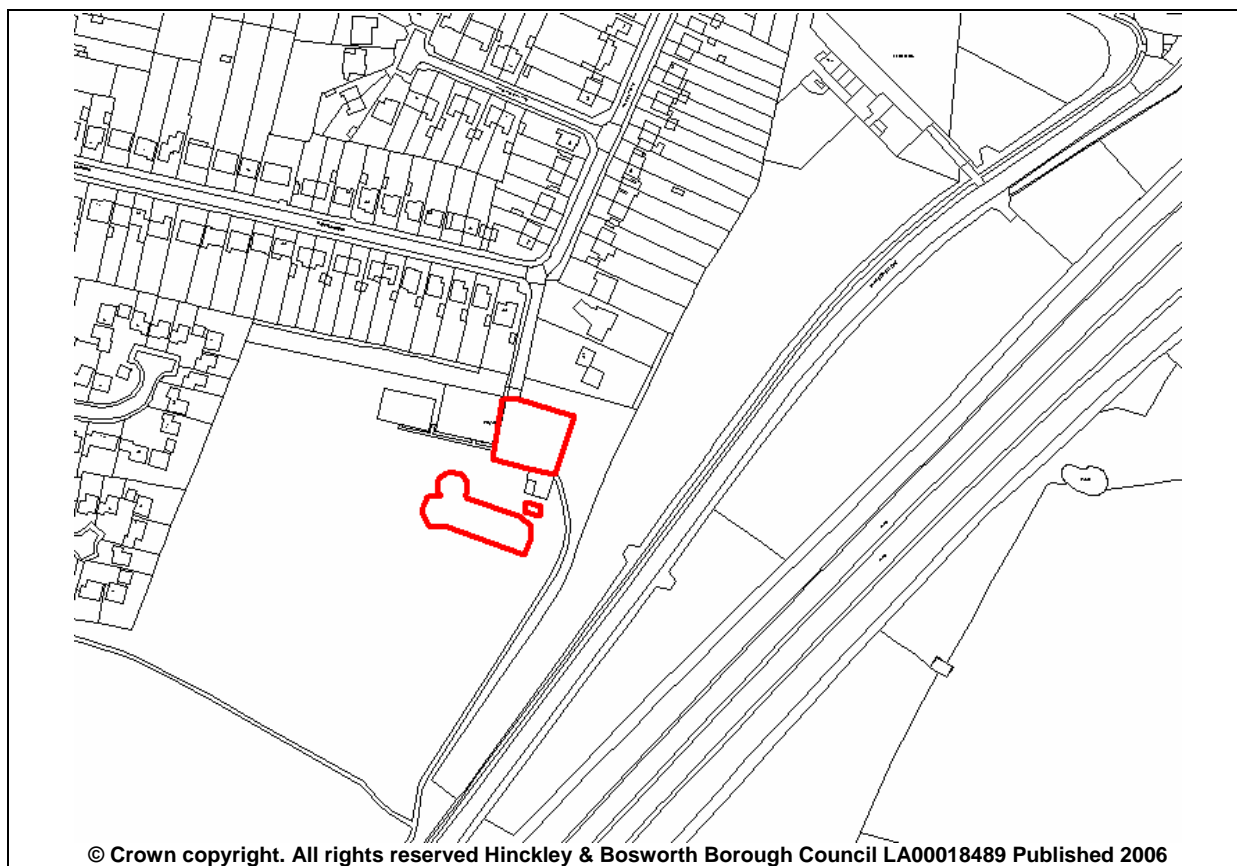
The information submitted states that topsoil excavated from underside of the track foot print will be used to grade the sides of the track. This will be temporarily stockpiled on site during the construction works and then spread and graded to the sides of the track in accordance with the design. The approximate volume of topsoil material will be 50 cubic metres. The topsoil will be grass seeded on completion.

The application has been submitted with a plan which shows existing ground levels in the vicinity of the proposals.

The application states that consultation with the local community took place in October 2010 in the form of a public meeting.

History:-

| | | | |
|---------------|---|----------|----------|
| 02/01082/TEMP | Temporary siting of cabin for Changing facilities | Approved | 07.11.02 |
| 95/00056/FUL | Installation of play equipment | Approved | 08.03.95 |



Consultations:-

No objections received from:-

The Director of Environment and Transport (Highways)
Head of Corporate and Scrutiny Services (Green Space).

No objection subject to condition received from The Head of Community Services (Pollution).

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

Site notice was displayed and neighbours notified, three letters of objection have been received on the following grounds:-

- a) may encourage unwanted behaviour
- b) park is unsuitable for this use
- c) noise and disturbance
- d) unsightly
- e) too close to dwellings.

The consultation period remains open at the time of writing and closes on 25th February 2011. Any consultation responses received before the closing date will be reported and appraised as a late item.

At the time of writing the report comments have not been received from Leicestershire Playing Fields Association.

Policy:-

National Planning Guidance

PPG17 sets out the Government's objectives in terms of planning and 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.

Local Policy

Local Development Framework Core Strategy 2009

Policy 8: 'Key Rural Centres relating to Leicester' seeks to support local services in Groby.

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

Hinckley and Bosworth Local Plan 2001

The site is located within the settlement boundary of Groby as defined on the proposals map of the adopted Hinckley and Bosworth Local Plan.

Policy BE1 seeks to safeguard and enhance the existing environment and states that planning permission will be granted where the development: complements the character of the surrounding area; avoids the loss of open spaces which contribute to the quality of the local environment; has regard to the safety and security of individuals and property; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; does not adversely affect the occupiers of neighbouring properties.

Policy REC4 states that planning permission will be granted for new recreation facilities provided that large scale indoor facilities are located in or adjoining built up areas, the facility does not have a detrimental effect on adjacent land uses or the amenities of adjacent dwellings, the form scale and design are in keeping with the area and do not detract from the character of the landscape, adequate parking and access arrangements are provided and there is sufficient capacity in the local road network, landscaping is provided as part of the proposal, the proposal is not detrimental to the rights of way network and the proposal does not adversely affect sites of ecological, geological or archaeological significance.

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

Other material policy guidance

The Council's Supplementary Planning Document on Play and Open Space provides further guidance on open space provisions for development.

The Council's adopted Green Spaces Strategy identified one of its medium term objectives as 'to continue the Community Parks development programme working with local residents to plan and implement improvements to parks'. It refers to Marina Park and bestows a quality score of 57.1 in the 2007 update.

Appraisal:-

The main considerations with regards to this application are the principle of development, the impact of the development on the character and appearance of the area, neighbouring residential properties, highway safety and other issues.

Principle of Development

The site lies within the settlement boundary for Groby and therefore there is a presumption in favour of development providing all other policies and planning matters are appropriately addressed. The site is designated as a recreation site in the adopted Hinckley and Bosworth Local Plan. The proposal falls to be considered in terms of policy REC4 and the overarching intentions of PPG17. Policy REC4 requires that the development satisfy the following criteria:-

- a) that large scale indoor facilities are located in or adjoining built up areas
- b) the facility does not have a detrimental effect on adjacent land uses or the amenities of adjacent dwellings
- c) the form scale and design are in keeping with the area and do not detract from the character of the landscape
- d) adequate parking and access arrangements are provided and there is sufficient capacity in the local road network
- e) landscaping is provided as part of the proposal
- f) the proposal is not detrimental to the rights of way network and
- g) the proposal does not adversely affect sites of ecological, geological or archaeological significance.

In this case, it is not considered that there are no issues in terms of criteria a, f and g with regard to this proposal.

Impact upon the Character and Appearance of the Area

The site is an existing recreational park area, it has areas which are grassed as well as the car park area and children's play equipment.

The proposed BMX track and shelter are sited close to the existing car park within the north eastern corner of the site. The design of the track is typical and comparable with other BMX track designs with four parallel 'straights' with tight corners to each end. The track undulates with a series of 'berms' of varying heights and gradients. The maximum height of any section of track is 1.9 metres. Topsoil will be mounded and graded down to the existing ground level around the perimeter of the track, this will be seeded with grass seed. The grass banks will enhance the track structure which will ensure that it assimilates in a satisfactory manner into the field and the surrounding area. It is considered that the final grading of the perimeter should be specified to define the true extent of the works. The agent has been requested to provide further details and any further information will be reported as a late item. However, at this stage, a condition has been included which will ensure that appropriate grading is approved prior to works commencing should the details not be provided prior to committee. These works will ensure that the proposal accords with the aims of policy REC4 (c) and(e)

The shelter is small scale and not considered to have a significant effect on the overall appearance of the site.

The works proposed to the existing car park include repairs, new kerbing, basecourse and resurfacing with asphalt, are considered to be acceptable and not considered to have any significant effect on the current appearance of the site or the surrounding area.

Impact on Neighbours

Two neighbours have raised concerns regarding the design of the track and the potential for noise and disturbance that could be caused by the proposals. Once established, the topsoil mounds seeded with grass will provide an acceptable finish and appearance to the track.

The siting is considered to be acceptable because it is located beyond the existing car park and play equipment. The nearest property is some 34 metres from the nearest part of the track. The Head of Community Services (Pollution) has confirmed that, owing to the distance from residences, the type of activity proposed, the construction method and the sites existing use as a recreational site, it is not considered that an on noise grounds could be sustained and it is considered that it is unnecessary to include a noise condition and therefore accords with the aims of REC4 (b).

Highway Safety and Parking

Access to the site is from the existing access off Marina Drive and is unaffected by the proposals. The Director of Environment and Transport has not raised any concerns regarding the application with respect to parking or highway safety. The proposal will therefore accord with policy REC4 in terms of (d)

Other Issues

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.

The Head of Community Services (Land Drainage) does not object to the proposals but has suggested a note to applicant regarding the installation of gravel drains parallel with the track to prevent ponding and deterioration of the turfed areas.

Conclusion

The proposed development seeks to enhance the opportunities available for recreation on the existing park and is considered to be in accordance with policy REC4 and PPG17. The location of the track and shelter and works to the car park are considered acceptable in terms of materials, design, potential for noise and disturbance to neighbours, highway safety and parking, and will not have any adverse impact on the character and appearance of the park once completed.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it would complement existing recreation uses on the site and would not have an adverse impact on: the character or appearance of the site or the wider landscape; the amenities of the occupiers of residential properties; highway safety; ecology; health and safety or archaeology.

Local Development Framework: Core Strategy (2009):- policies 8, 19, 21 and 22

Hinckley & Bosworth Borough Council Local Plan (2001):- policies REC4, BE1 and T5

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drawing DEH118A and Shelter detail received on 7 December 2010. Drawing DEH118C received on 17 January 2011.
- 3 Notwithstanding the details submitted, no development shall commence until such a time as full construction details, including sections showing the extent of the soil mounds, of the proposed BMX have been submitted to an approved in writing by the local planning authority. The development shall then proceed in accordance with the approved details only unless otherwise agreed in writing by the local planning authority.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To define the permission and to ensure that the true extent of the works necessary are appropriately considered to accord with policies REC4 and BE1 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
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 should consider the installation of gravel drains parallel with the track to prevent ponding and to prevent deterioration of turfed areas.
- 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

Item: 09

Reference: 11/00032/OUT

Applicant: Brenmar Developments (Hinckley) Ltd

Location: Land Off Eastwoods Road Hinckley

Proposal: ERECTION OF TWO DWELLINGS (OUTLINE - ACCESS AND LAYOUT ONLY)

Target Date: 21 March 2011

Introduction:-

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

Application Proposal

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

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

The application is a revised scheme with a reduced site area and revised layout to three previous applications determined last year and earlier this year.

The current application proposes the siting of the two dwellings parallel to each other and the proposed front elevations line through with the existing dwellings at the hammerhead of Eastwoods Road. The proposal indicates an integral garage to plot 1 and a detached single garage located between the two plots, within the rear garden serving plot 2.

The Site and Surrounding Area

The site area is 1,290 square metres and is currently rear garden land to three properties; it belongs to 85 Butt Lane and 42/40 Bradgate Road. It comprises mature planting and part is overgrown. The site is accessed from Eastwoods Road across an existing right of way.

The site is located within the settlement boundary for Hinckley as defined in the adopted Hinckley & Bosworth Local Plan. It is surrounded by existing dwellings and gardens, located within an area that is predominantly residential, it is characterised by dwellings on large plots differing in architectural style and materials of construction. However, previous applications of this nature have been approved which has changed the overall pattern of development in this area. Adjacent to the application site to the west there are three detached dwellings that front the hammer head at the end of Eastwoods Road. These dwellings were constructed on the back gardens of properties in Butt Lane but have direct access off the Eastwoods Road hammer head taking on the form of an end stop development.

Technical Documents submitted with application

The application is accompanied by a Design and Access Statement which states that the site is in the ownership of three known parties. The sites current use is garden land. The site is surrounded by existing dwellings. The site is accessed from Eastwoods Road. It is anticipated that the dwellings will be traditionally constructed and have garages with two parking spaces provided in front of each garage. The new driveway to each of the properties is proposed to be constructed of a permeable surface. The approximate height of the new dwellings will be 11 metres. The design and access statement explains that enquiries conducted by solicitors have failed to reveal ownership of the right of way providing the access from Eastwood Road to the application site.

History:-

| | | | |
|--------------|-----------------------------------|----------|----------|
| 10/00969/OUT | Residential Development (Outline) | Refused | 07.01.11 |
| 10/00642/OUT | Residential Development (Outline) | Approved | 01.10.10 |
| 10/00454/OUT | Residential Development (Outline) | Refused | 04.08.10 |

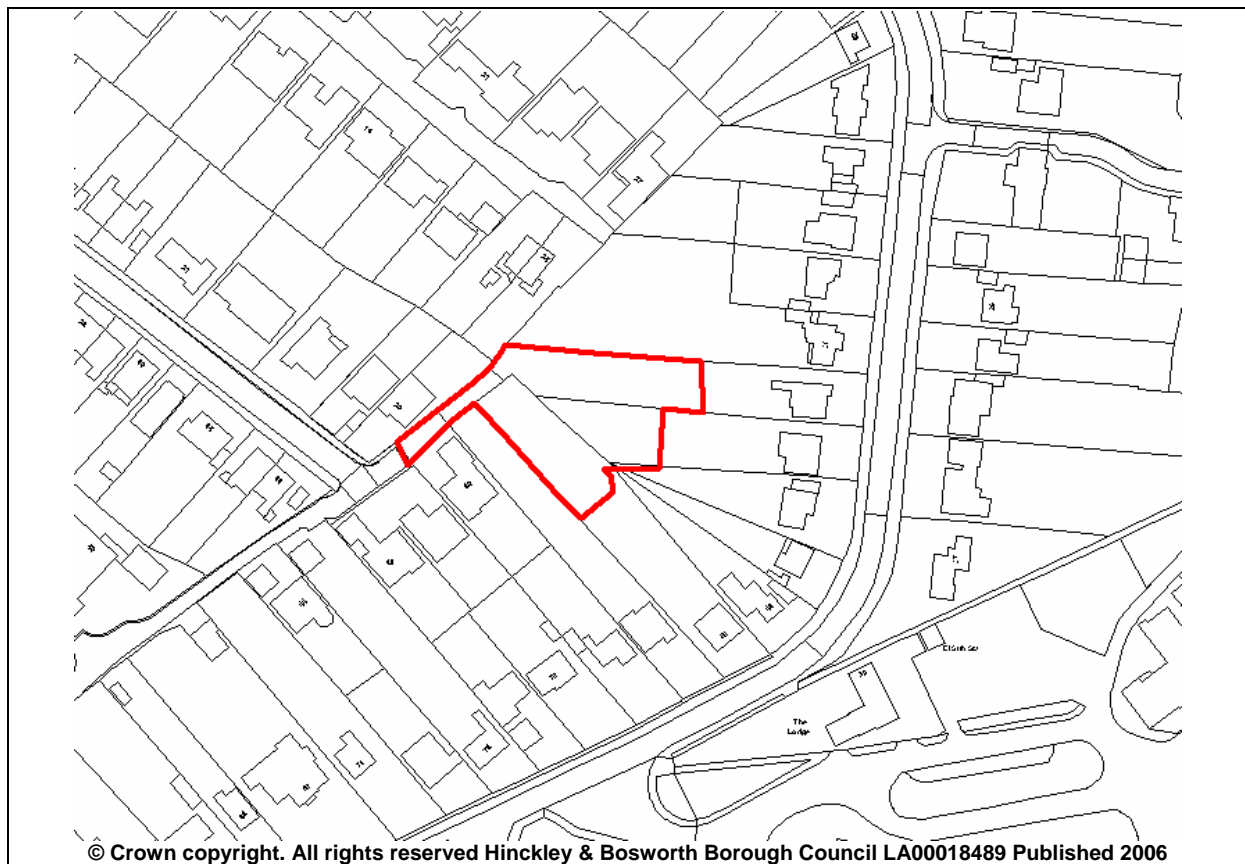
The first application (10/00454/OUT) was refused on the following grounds:-

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

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

The last application for the site (10/00969/OUT) was a reduced site area but a similar layout to the first scheme and was refused on the same grounds as the first application.

| | | | |
|--------------|--|------------------------|----------|
| 04/01052/OUT | Renewal of outline consent one dwelling (r/o 85 Butt Lane) | <u> </u> Approved | 06.10.04 |
| 01/00733/OUT | Renewal of outline consent one dwelling (r/o 85 Butt Lane) | <u> </u> Approved | 13.09.01 |
| 98/00562/OUT | Erection of one dwelling (r/o 85 Butt Lane) | <u> </u> Approved | 19.08.98 |



Consultations:-

No objection subject to conditions have been received from:-

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

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

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

Two letters of objection received on the following grounds:-

- a) should be refused for same reasons as previous application
- b) not the most efficient and effective use of development land
- c) layout will prejudice development of rear garden not included with current scheme
- d) proximity to neighbours boundary will be overbearing, obtrusive and 'unneighbourly'
- e) will create tunnel effect to part of neighbours garden
- f) trees in neighbouring gardens need to be protected during development
- g) land is currently garden and is maintained (not unmaintained as stated)
- h) access is historic bridal path and therefore it would have been common land which would have been administered by the Council for local citizens, would compensation be payable?

The consultation period remains open at the time of writing and closes on 25 February 2011. Any consultation responses received before the closing date will be reported and appraised as a late item.

Policy:-

Central Government Guidance

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

Planning Policy Statement 3 - Housing sets out the national planning policy framework for delivering the Government's housing objectives. This document states at paragraph 12 that good design is fundamental to the development of high quality new housing. This Statement was revised in June 2010 to include garden land as an exception to previously developed land. Ministerial advice provides clarification on this change, stating that this is to primarily prevent overdevelopment within residential areas that is out of character.

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

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

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

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

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

Regional 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.

Judgement was given last week in a second challenge by Cala Homes when the Court held that the SoS's intention to reform the planning system by removing regional strategic planning from it is to be taken into account as a material consideration.

In relation to the weight to be given to that intention as a material consideration the Court held that `the weight to be given to relevant provisions of Regional Strategies pending the legislative process will be for decision-makers to gauge. Until the end of that process is reached Regional Strategies will remain in place as part of the development plan.

The East Midlands Regional Plan 2009

The East Midlands Regional Plan (adopted March 2009) provides the development strategy for the East Midlands up to 2026. Policy 1 seeks to secure the delivery of sustainable development. Policy 2 promotes better design. Policy 3 directs development towards urban areas with Hinckley being defined as a Sub-Regional Centre and the main focus for development at the local level. Policy 3 also states that in assessing the suitability of sites for development priority should be given to making the best use of previously developed land in urban or other sustainable locations. Policy 43 sets out regional transport objectives across the region.

Local Policy

Local Development Framework Core Strategy 2009

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

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

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

Policy 24 seeks to ensure that all new homes in Hinckley will be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes.

Hinckley and Bosworth Local Plan 2001

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

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

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

Policy BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Development should ensure adequate highway visibility for road users and adequate provision for on and off street

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

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

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

Supplementary Planning Guidance/Documents

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

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

Appraisal:-

The main considerations with regards to this application are the principle of development, impact upon character of the area, the acceptability of the access, the proposed layout and impact upon neighbour's amenity. All other matters are for consideration at a later date under the reserved matters.

Principle of Development

PPS3 has recently been revised (June 2010) to exclude private residential gardens from the definition of 'previously-developed' land. Paragraph 35 of PPS3 states that the priority for development should be on previously developed land. Ministerial advice provides clarification regarding what this small but significant change to National Policy seeks to achieve. It is interpreted that this is to primarily prevent over development within residential areas that is out of character.

Notwithstanding the changes to PPS3, saved policy RES5 of the adopted Hinckley Local Plan supports residential development within the settlement boundary providing the siting, design, layout and access does not conflict with other relevant policies. The principle of residential development of a larger but substantially similar site for two detached dwellings has been established by the approval of outline planning permission issued under reference 10/00642/OUT.

It is therefore considered that in order for development of this site to be considered acceptable it must be considered against saved policy BE1 of the Local Plan.

Character of the Area

Criterion A of Policy BE1 requires development to complement or enhance the character of the surrounding area. The proposed dwellings will be similar in scale and sited in line with other dwellings built 'at depth' within the rear gardens of properties on Butt Lane therefore, they will be in keeping in terms of the character and, subject to suitable detail being agreed

at the reserved matters stage, the proposal will complement and enhance the surrounding area.

Acceptability of the Access

Access to the site is proposed via a right of way from Eastwoods Road. The Director of Environment and Transport (Highways) has commented in the same terms as on the previous applications for the site, that the proposed vehicular access is below the usual width required for shared access. Usual standards would be for a 5.25m wide access. The proposed access is approximately 3.8m wide and does not provide enough width to enable two vehicles to pass within its constraints. Whilst this is of concern, and could lead to occasional giving way or reversing into the highway, the Highway Authority do not recommend refusal. The Highway Authority further comments that the access is at the end of a cul-de-sac with very little traffic within the vicinity. There will be a good amount of inter-visibility between vehicles seeking to access and egress at the same time and hence there are no sustainable highway reasons for refusal of the application. The Highway Authority therefore recommends conditional control over parking, turning and surfacing in order to ensure that a useable arrangement is proposed. It is considered that parking standards for two dwellings could be achieved within the site. A development of two dwellings would not be required to provide a turning area within the site but the current proposal does provide turning which was an aspiration when the committee approved a scheme under reference 10/00642/OUT.

Layout and Impact on Neighbours

Two of the three previous applications for the site were refused on the grounds of poor layout and that the proposed dwellings did not relate well to each other or the surrounding area. In this proposal, the dwellings now occupy a common front building line and they now complement each other in terms of their siting and relationship, the scheme is now considered acceptable as it maintains the character of the surrounding area. The proposed front building line will also accord with the existing properties located on the hammerhead of Eastwoods Road.

Objections have been raised that the proposed siting in this application will preclude the development of the land to the rear of No 83 Butt Lane and will therefore not provide an efficient and effective use of development land. Furthermore, it is stated that the proposal will provide a 'tunnel effect' to this garden as the south western elevation of the proposed dwelling for plot 1 is located very close to the boundary of the neighbouring garden.

Each proposal is considered on its own merits and in this case, it is considered that the siting is acceptable in terms the prevailing pattern of development and of providing a satisfactory relationship with the properties located on Butt Lane and those at the hammerhead of Eastwoods Road. It is not possible to require a developer to include a particular piece of rear garden within a proposal site unless it is required to make the development acceptable in planning terms.

In terms of the relationship with No 83 Butt Lane, this rear garden is some 62 metres in length, and the proposed plot 1 will sit alongside the bottom of 19 metres of the garden, as such No 83 will still have approximately 43 metres of garden before reaching the proposed new dwelling. There will therefore be ample amenity space located to the rear of the existing dwelling which will not be affected by the proposal. Whilst there will be some effect on the rear part of the garden which will be located between No 50 and the proposed dwelling on plot 1, the plot is located to the north of No 83's garden and therefore there will only be limited overshadowing, it is not considered that the proposed siting would warrant refusal on the grounds of the impact on amenity on No 83 Butt Lane.

Overall it is considered that the layout of the site does not have any adverse material impact upon the amenities of adjacent neighbours, and other issues such as design and window to window distances, will be subject to further consideration under the reserved matters application when scale and appearance will be material considerations.

Other Matters

Sustainability: The site is located within a very short walking distance of the town centre and the services it provides. The character of the immediate area allows a good range of pedestrian routes.

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. The details of the scheme's compliance with this standard will be subject to a condition.

Drainage: The Head of Community Services (Land Drainage) raises no objection to the proposal but has asked for conditions 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. In this case The Head of Community Services (Land Drainage) has asked for details of any proposed soak away to be considered, however given that such matters are controlled under the Building Regulations no conditional control is necessary.

Recycling and Waste Collection: The consideration of the provision of recycling facilities is a material consideration in the determination of applications for new dwellings. Given that this application proposes two conventional dwellings with substantial residential curtilages there is likely to be plenty of space within the curtilage for the storage of waste and recycling containers and no conditional control is required.

Play and Open Space: The application site is more than 400m away from any existing open space and therefore this application does not meet the criteria for the requirement of financial contributions towards the provision or maintenance of informal children's play space as laid out in the Council's adopted Play and Open Space Supplementary Planning Guidance.

Neighbours have raised concerns regarding the omission of a tree survey with this application. Due to the changes in current local requirements it was not possible to require the submission of a tree survey with the current application. The trees on site are garden trees and are not considered to be of important amenity value within the streetscene. There was no condition imposed with regard to tree protection as part of the previous approval for the site and this current proposal will shift the siting further from the trees located within the garden at No. 83.

Conclusion

It is considered that whilst there has been a change in national guidance regarding to the status of garden land, the intention of the change was to ensure development of garden land is characteristic with the surrounding area and does not result in overdevelopment. As such the proposal should be assessed against Policy BE1 to ensure it complements or enhances the surrounding area. Whilst two earlier schemes were considered to be unacceptable for

the reasons discussed previously in this report, this proposal overcomes the issues. This revised scheme is considered to be similar to the approved scheme and is considered to be compliant with the requirements of Policy BE1 and is therefore an acceptable form of development.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

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

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

Hinckley & Bosworth Borough Council Core Strategy (2009) :- Policy1, Policy 16, Policy 19, Policy 24

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

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

- 3 The reserved matters application shall include the following information for the prior approval by the Local Planning Authority.
 - i) The external building materials
 - ii) Details of boundary treatments
 - iii) Details of existing and finished floor levels of the proposed dwellings
 - iv) Details of the provision, layout and surfacing of the access, driveways, turning and parking spaces.

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

- 4 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, prior to the first occupation of any dwelling 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.

- 5 Before the first occupation of either dwelling hereby approved, the access drive, turning space and parking spaces shall be laid, surfaced and made available for vehicle use. These spaces shall remain available for vehicle use thereafter.
- 6 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drawings 05D and 02 ZF received on 18 January 2011

Reasons:-

- 1&2 To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).
- 3 To ensure that there is sufficient detail submitted to enable full consideration of the proposal.
- 4 In the interests of sustainable development to accord with policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy
- 5 In the interests of road safety to accord with policy T5 of the Hinckley & Bosworth Local Plan.
- 6 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 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.
- 6 The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must

be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively, assembled from units of one of the newer, modular systems, comprising cellular tanks and incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.

Contact Officer:- Louise Forman Ext 5682

Item: 10

Reference: 11/00049/FUL

Applicant: Woodlands Garden Centre

Location: Woodlands Nurseries Ashby Road Stapleton

Proposal: EXTENSIONS AND ALTERATIONS TO RESTAURANT

Target Date: 25 March 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

This application seeks full planning permission for the demolition of an existing store building, the removal of two subterranean sewage treatment tanks and the erection of an extension to the existing restaurant.

The store is a steel framed building (215 square metres) situated on the eastern boundary of the site, between the garden centre and the property on Ashby Road known as The Bizzy Bee. The tanks are situated close to the northern boundary of the garden centre site.

The proposed restaurant extension is a single storey structure of 286 square metres. It comprises three curved roof bays attached to the rear of the existing main garden centre building. It would be linked to the existing restaurant and incorporates restaurant seating, a coffee bar and indoor children's play area. It also includes two outdoor deck areas, a pedestrian access ramp and a small bin store. It would be finished with a brick plinth, cedar shiplap boarding, powder coated aluminium door and windows and a grey clad roofing membrane. The eaves of the existing building have a height of 5.8 metres, with 7.6 metres to the apex of the roof. The extension would be 3.3 metres high at the eaves and 4.6 metres at the highest part of each of the three bays.

The central bay would extend 16 metres from the rear of the existing building, while the two bays either side are 8 metres long. The areas in front of the two shorter bays are proposed to be used as decks for outdoor seating.

The closest part of the extension would be about 5 metres from the boundary with the neighbouring dwelling.

Two subterranean sewage treatment tanks are proposed to be removed and replaced by facilities elsewhere on the site as part of the wider alterations at the garden centre.

The Site and Surrounding Area

The garden centre covers an area of approximately 6.68 hectares in total and is located on the west side of the A447 (Ashby Road) 1 mile north of Stapleton. The garden centre is surrounded by open agricultural land with occasional detached dwellings to the west, east and north. In addition to the main building (7,100 square metres) containing retail areas for a wide range of horticultural and other products, a cafe and storage area, there are outdoor sales areas (3,528 square metres) and large (non-public) horticultural glasshouses (11,750 square metres) together with service yards and staff/visitor parking areas within the overall site. There were also two detached dwellings within the site. The existing commercial buildings have grown in stages since the late 1970's and are single storey, mainly medium height, steel framed structures with a mixture of glazed and brick panel walls and pitched roof bays together with some brick built extensions with flat roofs. The parking areas are divided between formal marked tarmac areas immediately around the building together with more informal temporary hardcore areas and unmarked overspill parking in the grassed landscaped area to the south of the access. The boundaries to the site are generally hedgerows and narrow bands of perimeter tree planting.

Works have recently commenced on significant alterations to a number of the buildings on the site (see applications ref 09/00940/FUL and 10/00818/CONDIT below) .

Technical Documents Submitted with the Application

The Planning Statement assesses the proposals and supporting information and considers that the proposals are consistent with both national and development plan policies.

The design and access statement states that the proposal is consistent with the existing uses of the site and has been designed to enhance the appearance of this part of the building. It states that the proposed development would facilitate the provision of a modern restaurant for visitors to the garden centre of a scale and standard commensurate with the existing use. This facility will bolster the economic viability of this long-established use, helping to secure its future and the local employment opportunities it offers and provide an addition 2 full time positions.

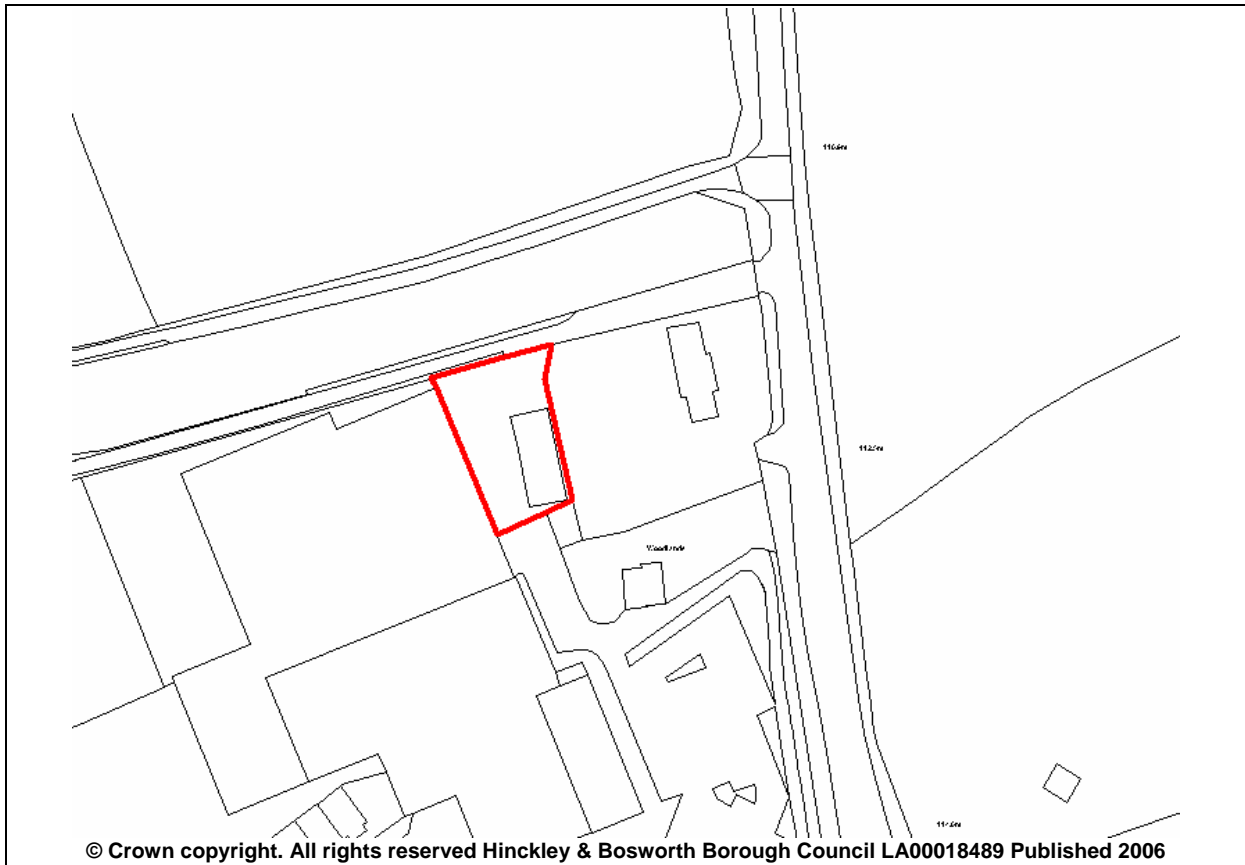
History:-

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

| | | | |
|-----------------|---|----------|----------|
| 10/00818/CONDIT | Variation of condition 2 of planning permission 09/000940/FUL for minor changes to the building design and relocation of tanks | Approved | 06.01.11 |
| 09/00940/FUL | Demolition of Bungalow, Part of Glasshouse and Garden Centre Offices, Change of Use of Existing Garden Centre Warehouse to Retail Sales, Erection of Storage Building and Entrance Canopy, Relocation of Water Tanks, Fuel Tanks and Sewage | Approved | 01.06.10 |

Treatment Plant & Formation of
Additional Car Parking and
Alterations to the Open Sales Area

| | | | |
|--------------|--|----------|----------|
| 08/00141/FUL | Demolition of Existing Dwelling And Extension to Existing Garden Centre with Associated Works | Approved | 12.05.08 |
| 03/00966/FUL | Extensions and Alterations to Form a Horticultural Plant Shade Open Sales Area and Vehicle Turning Area | Approved | 07.10.03 |
| 02/00762/FUL | Installation of Water Treatment Tank | Approved | 30.07.02 |



Consultations:-

No objection has been received from:-

- The Director of Environment and Transport (Highways)
- The Director of Environment and Transport (Ecology).

No objection subject to condition for works to boundary from The Head of Community Services (Pollution).

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

Environment Agency
The Head of Community Services (Land Drainage)
Peckleton Parish Council
Site Notice
Neighbours.

Policy:-

Central Government Guidance

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' in paragraph 27, states that planning authorities should seek to focus developments that attract a large number of people, especially retail and leisure developments, in existing centres to promote their vitality and viability, reduce the need to travel and encourage the use of public transport to promote more sustainable patterns of development.

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

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' in paragraph 1 advises that all development in rural areas should be well designed and inclusive, in keeping and scale with its location and sensitive to the character of the countryside. Paragraph 5 encourages planning authorities to support a wide range of economic activities in rural areas including the expansion of business premises to facilitate healthy and diverse economic activity. Paragraph 15 encourages the support of countryside based enterprises that contribute to rural economies.

Regional Policy

The East Midlands Regional Plan (2009) provides a broad development strategy for the East Midlands up to 2026. Policy 2 promotes better design. Policy 3 relates to the distribution of new development and recognises that the needs of rural areas should be provided for with priority given to making the best use of previously developed land in sustainable locations. Policy 22 states that local planning authorities should prevent the development or expansion of additional regional scale out-of-town retail floor space. Policy 24 promotes the continued diversification and further development of the rural economy where this is consistent with a sustainable pattern of development and the environmentally sound management of the countryside. Policy 43 seeks to reduce the need to travel and promotes a modal shift away from the private car to more sustainable means of transport.

Local Policy

Local Development Framework: Core Strategy 2009

Spatial Objective 1 seeks to strengthen and diversify the economy by providing sufficient, sustainably located good quality premises to encourage appropriate sectors with growth potential. Spatial Objective 3 seeks to ensure rural communities have access to a range of shops and other facilities and services to support, enhance and improve the sustainability, vibrancy and vitality of rural areas. Spatial Objective 13 seeks to reduce the high reliance on car travel in the borough through improvements to public transport infrastructure and facilities that promote walking and cycling and the use of travel plans.

Hinckley and Bosworth Local Plan 2001

The site is located in the countryside outside any settlement boundary.

Policy BE1 seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. Development should complement or enhance the character of the surrounding area with regard to scale, layout, mass, design and materials; incorporate design features that minimise energy consumption and minimise the impact of the development on the local environment; incorporate landscaping to a high standard where this would add to the quality of the design and siting; have regard to the needs of wheelchair users; ensure adequate highway visibility for road users and adequate provision for off-street parking together with turning facilities and should not adversely affect the occupiers of neighbouring properties.

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

Policy NE2 seeks to ensure that development does not cause harm through the pollution of the air or soil.

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

Policy NE14 requires satisfactory arrangements to be made for the disposal of surface water drainage.

Policy T5 refers to the application of appropriate standards for highway design and parking targets for new developments unless a different level of provision can be justified. Policy T11 states that proposals likely to generate significant traffic flows should not have a detrimental effect on the local traffic situation.

Appraisal:-

The main considerations with regards to this application are the principle of development in this rural location and the impact of the development on: the character and appearance of the site and surrounding countryside; a neighbouring residential property and the highway network.

Principle of Development

Government guidance in PPS1 and PPS4 along with Local Plan policy RET1, seeks to focus major retail development towards existing centres in order to promote more sustainable patterns of development. However, there is also support for the expansion of existing business premises in rural areas and a positive approach to encourage proposals designed to improve the viability of existing facilities that play an important role in sustaining rural communities, particularly where this involves the use of previously developed land.

The garden centre and plant production area is an existing Class A1 (Retail) business together with a horticultural nursery covering a significant site area. It is considered to be

important to the local rural economy of the area providing employment for over 120 full and part time staff in the garden centre and a further 15 persons employed in horticulture. 2 new jobs are proposed as a result of this development.

The existing restaurant is well established and is ancillary to the main use of the site. This application relates to a relatively modest addition to the overall floor area of the buildings on the site. Consequently, the proposed development is considered to be acceptable in principle in respect of national guidance and local plan policy.

Impact on the Character and Appearance of the Site and Surrounding Countryside

The proposed extension is well designed and lower than the existing building and would enhance the appearance of the site. It is considered that the addition is contemporary in appearance and would contribute positively to the site as a whole whilst not appearing out of character or context. It is proposed to use a light grey single ply membrane on the curved roof. The elevational treatment will comprise a red multistock brick plinth, a natural semi exposed timber frame with natural cedar shiplap boarding. Doors and windows are to be dark grey powder coated aluminium frames with clear glazing. It would be located close to the eastern boundary of the site and with existing and proposed landscaping the proposal would not have a significant impact upon the character and appearance of the site.

Impact on Neighbouring Properties

The issues to consider are the impact of the extension itself upon residents of the neighbouring property and any associated noise and disturbance from the use of the two outdoor decking areas.

The proposed extension is located to the west of the nearest residential dwelling. At its closest point part of the extension would be 5 metres from the boundary of the site shared with the property known as The Bizzy Bee. This property has a mixed use of private dwelling with storage. The development would be about 35 metres from the rear elevation of the dwelling.

The boundary is defined by a 1.5 metre fence with some trellis and a mixture of planting of various heights including 5 metre high conifers, although these trees are not at the point where the extension would be closest to the boundary. While it is not an attractive building the existing store to be removed which is located on the boundary, does effectively screen part of the garden centre from the neighbouring residents.

Due to its scale and location it is not considered that the extension would have an adverse impact upon the neighbouring amenity and would, it is considered, by virtue of the well designed proposal, improve the appearance of the development. The boundary would be landscaped to provide both immediate screening and a softening of the impact of the extension over time.

The main sources of possible disturbance are either when the doors in the restaurant are open or when the two deck areas are occupied. The restaurant operates the same hours as the garden centre, which are 9.00 – 18.00 weekdays/Saturday and 10.30 – 16.30 Sunday. There is no proposal to alter these hours.

The use of the restaurant and the indoor play area have some potential for disturbance. However, it is considered that the provision of planting and fencing on the boundary will mitigate the effect of any noise and disturbance. The Head of Community Services (Pollution) has recommended a condition which is included in the recommendation below.

The two deck areas would each have an area of about 8 metres by 8 metres and could each accommodate six tables. One of the deck areas is at the same level as the floor level in the restaurant, 0.54 metres above ground level and has a clearly defined boundary demarked by railings. The second deck area is not defined and appears to be at ground level. This area includes an access ramp. In the interests of the amenity of the neighbour this area needs to be defined and demarked. The applicant has agreed to a condition to this effect.

The condition to mitigate the impact from any noise disturbance when the restaurant doors are open would be equally effective helping to control any outdoor noise

Highway and Parking Issues

It is not considered that the proposal will have a significant impact upon existing access and parking arrangements. The Highway Authority has raised no objection to the proposal.

Conclusion

The proposal is for a relatively modest extension to the main building at this extensive site. Subject to adequate boundary treatment it is considered that the proposal will enhance the appearance of the site and should not have an adverse impact upon neighbours.

RECOMMENDATION:- that subject to no significant objections being received prior to the expiry of the consultation period ending on 3 March 2010 the Deputy Chief Executive (Community Direction) be granted delegated powers to issue planning permission subject to the following conditions.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

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

Hinckley & Bosworth Borough Council Local Plan (2001):- Policies BE1, RET1, NE2, NE5, NE12, NE14, T5 and T11.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 No development shall take place until full details of both hard and soft landscape works for the eastern boundary of the site have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. All works which form part of the approved scheme shall be completed before the restaurant extension is first brought into use.
- 3 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.

- 4 Development shall not commence until full details of the northern outdoor deck area have been submitted to and approved in writing by the Local Planning Authority. All works which form part of this deck area shall be completed in accordance with the approved details before the restaurant extension is first brought into use.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To enhance the appearance of the development and to ensure that the proposed development does not have an adverse impact on the amenities of the occupiers of surrounding dwellings in terms of noise to accord with policy BE1, NE2 and NE12 of the adopted Hinckley and Bosworth Local Plan.
- 3 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure the proposed development does not have an adverse impact upon the amenities of the occupiers of neighbouring dwellings to accord with Policy BE1 and NE2 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Pat Reid Ext 5700

PLANNING COMMITTEE – 1 MARCH 2011

REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)
RE: APPEALS LODGED AND DETERMINED

1. PURPOSE OF REPORT

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

2. RECOMMENDATION

That the report be noted.

3. BACKGROUND TO THE REPORT

Appeals Lodged

Appeal by Mr Phillip Racheal against the refusal of full planning permission for the erection of two flats and associated access at 8 Mill Lane, Earl Shilton. (Written Representation).

Appeal by Mr E. Cooper & Miss K. Wykes who submitted an application that was considered invalid on receipt for extensions and alterations at 287 Brookside, Burbage, Hinckley. (Written Representation).

Appeal by Mr Martin Morris against the refusal of full planning permission for an agricultural workers dwelling with associated garage and access (10/00816/FUL) at New House Farm, Stapleton Lane, Dadlington. (Informal Hearing).

Appeal by Mr Lee Canning against the refusal for full planning permission for extensions and alterations to dwelling (10/00867/FUL) at 62 Lychgate Lane, Burbage, Hinckley. (Written Representation).

Appeals Determined

None since last report.

4. FINANCIAL IMPLICATIONS (DM)

Potential legal costs can be met from existing budgets.

5. LEGAL IMPLICATIONS (AB)

None raised directly by this report.

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 MARCH 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: 18.02.11

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

| FILE REF | CASE OFFICER | APPLICATION NO | TYPE | APPELLANT | DEVELOPMENT | SITUATION | DATES |
|---------------|--------------|----------------|------|---|--|--|---|
| | LF | 10/00969/OUT | WR | Brenmar Developments (Hinckley) Ltd | Land Off Eastwoods Road Hinckley | <i>Awaiting Start Date</i> | |
| 11/00003/FTPP | KR | 10/00867/FUL | WR | Mr Lee Canning | 62 Lychgate Lane Burbage Hinckley | <i>Start Date</i> <i>Awaiting Decision</i> | 08.02.11 |
| 11/00004/PP | LF | 10/00816/FUL | IH | Mr Martin Morris | Land Adjacent New House Farm Stapleton Lane Dadlington | <i>Start Date</i> Questionnaire Statement of Case Final Comments | 10.02.11 24.02.11 24.03.11 14.04.11 |
| | | 10/00843/FUL | WR | Mr & Miss E Cooper & K Wykes | 287 Brookside Burbage Hinckley | <i>Awaiting Start Date</i> | |
| 11/00001/PP | EM | 10/00693/FUL | WR | Phillip Racheal 24 Went Road Birstall | 8 Mill Lane Earl Shilton | <i>Start Date</i> Statement of Case Final Comments | 18.01.11 01.03.11 22.03.11 |
| 11/00002/PP | JH | 10/00661/OUT | PI | Flude Family Settlement 2004 | Land Adjacent to Hinckley Golf Course Leicester Road Hinckley | <i>Start Date</i> Rule 6 Proof of Evidence (TBC) Public Inquiry (4 days) (tbc) | 02.02.11 16.03.11 10.05.11 14-17.06.11 |
| 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 01.03.11 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> <i>Awaiting Decision</i> | 11.10.10 |
| 10/00014/PP | SF | 09/00798/FUL | PI | JS Bloor | Land East of Groby Cemetery Groby Road Ratby | <i>Start Date</i> <i>Awaiting Decision</i> | 21.06.10 |
| 10/00011/PP | RW | 09/00915/OUT | PI | Mr John Knapp | 26/28 Britannia Road Burbage | <i>Start Date</i> Public Inquiry | 15.11.10 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 | <i>06.11.09</i> On hold pending JR |
|--------------|-------|--------------|----|-------------|--|--|--|

Decisions Received

Rolling 1 April 2010 to 18 February 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 |
|------------------------|---------|-----------|-------|-----------|
| | | | | |

PLANNING COMMITTEE – 1 MARCH 2011

REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)

RE: GROBY AND HOLLYCROFT CONSERVATION AREA STATEMENTS & MANAGEMENT PLANS

1. PURPOSE OF REPORT

To seek Members' approval to adopt the Conservation Area Statements and Management Plans for the conservation areas in Groby and the Hollycroft in Hinckley.

2. RECOMMENDATION

Members adopt the Conservation Area Statements and Management Plans for Groby and the Hollycroft as Planning Guidance.

3. BACKGROUND TO THE REPORT

- 3.1 The conservation area in Groby was declared in 1976 and the Hollycroft in January 1998. Conservation Area leaflets were produced at that time which set out the extent of the Conservation Areas, and gave brief information about the impact of designation on property owners in the area. The information provided in the leaflets is similar to that provided for all Conservation Areas in the Borough.
- 3.2 As reported to the Planning Committee on 2 February 2007, it is intended to review all Conservation Areas in the Borough and issue a Conservation Area Statement and Management Plan for each area. The statement will assess the significance of the designated area and analyse how that significance is vulnerable to change. Its aim is to preserve and enhance the character of the area and to provide a basis for making sustainable decisions about its future through the development of management proposals. The documents will provide a description of the historical development of the settlement, set out the important features of the conservation area which should be protected and indicate the planning guidance and policies which apply to new development in the area.
- 3.3 The benefits of a comprehensive appraisal of a conservation area are that it will provide a sound basis for development control decisions, for protecting our local heritage, for developing initiatives to improve the area and as an educational and informative document for the local community.

- 3.4 The Management Plans for the Conservation Areas will take the form of a mid to long term strategy for preserving and enhancing the conservation area. They will address the issues and make recommendations for action arising from the statements and identify any further detailed work needed for their implementation. They will also set out specific enhancement schemes for the public realm and aim to secure the repair of important heritage features and buildings in the areas. The plans will also include photographic surveys, which will be used as a mechanism for monitoring future changes in the designated areas.
- 3.5 The Conservation Statement and Management Plan for Groby and the Hollycroft have recently been completed by officers of the Council. A public meeting was held at the Village Hall in Groby and the Pavilion in Hollycroft Park which were very well attended by local residents and Parish Councillors. The documents were also made available on the Council's Web Site.

4. **FINANCIAL IMPLICATIONS [AB]**

- 4.1 There are none arising directly from this report. Any costs involved in the preparation and adoption of the Statements and Plans will be met from existing resources.

5. **LEGAL IMPLICATIONS [MR]**

Under section 71 Planning (Listed Buildings and Conservation Areas) Act 1990, there is a duty on a local planning authority from time to time to formulate and publish proposals for the preservation and enhancement of their conservation areas, to submit these for consideration to a public meeting in the area to which they relate, and to have regard to any views concerning the proposals expressed by persons attending the meeting.

6. **CORPORATE PLAN IMPLICATIONS**

The preparation of the Conservation Area Statements and Management Plans meet Strategic Objective 7 of the Corporate Plan.

7. **CONSULTATION**

At Groby, the exhibition was held at the Village Hall on 29 November and subsequently in the local library. The display included the study findings and future management recommendations illustrated by photographs, drawings and maps.

- 7.1 The exhibition generated a lot of public interest. The displays also gave the opportunity to provide additional information about the purpose of Conservation Area designation, the impact of the additional controls over land and property, and guidance regarding the type of development that is acceptable.
- 7.2 At the Hollycroft, the public exhibition was held in the park pavilion on 9 February. The exhibition was extremely well received by over 60 residents, all of whom fully supported the conservation proposals.

7.3 The written responses of the public together with officer responses are included in appendices A and B. The applicable comments were incorporated into the revised documents. Any further responses received will be reported to Committee as a late item.

8. **RISK IMPLICATIONS**

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

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

8.3 The ability to fund the improvements identified in the Management Plan depends on adequate Council funding being available which in the current economic climate is unlikely. This will have an impact on residents' aspirations for the quality of the environment in the conservation area.

8.4

| Management of significant (Net Red) Risks | | |
|--|--|----------------|
| Risk Description | Mitigating actions | Owner |
| The key risks of not endorsing and implementing the Conservation Area Statement and Management Plan, are not meeting performance targets and the Council not being recognised for the good achievements of its Conservation Service and not protecting our local heritage. | Maintaining Conservation Area Appraisal programme. | Barry Whirrity |

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

9.1 The new Conservation Area Statements will further protect the Borough's Heritage (Chapter 5 of the Community Plan).

9.2 The village of Groby is within the rural area of the Borough. The documents concerning this village are only relevant to the Parish of Groby and will help the parish council and development control officers when commenting on planning applications.

9.3 The Hollycroft Appraisal and Management Plan will be of similar use to development control officers and agents when submitting planning applications.

10. **CORPORATE IMPLICATIONS**

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

Community Safety Implications - None
Environmental implications – Included in the report.
ICT Implications – None
Asset Management Implications - None
Human Resources Implications – None
Planning Implications – Contained within the report.
Voluntary Sector

Background Papers: Conservation Area Appraisal, Appraisal Plan, Long Term Strategy Management Plan, Public Comments on Groby and the Hollycroft Conservation Areas available in the Members' room and can be viewed on the Council's web site.

Contact Officer: Barry Whirrity, ext 5619

APPENDIX A

GROBY CONSERVATION AREA EXHIBITION

SUMMARY OF CONSULTATION RESPONSES

Officers' comments are noted in italics

The following issues were raised:

1 There was general support for the aims and objectives of the Conservation Area Appraisal and Management Plan. A number of residents felt the public exhibition, which was held on one afternoon at the village hall and for two consecutive weeks at the Groby Library, was informative and helped focus attention on conservation area issues. Several residents felt that some form of sensitive control was needed, however, before criticising improvements to existing properties and the design of new buildings, builders should be made to conform to conservation design standards. Another resident felt that the Parish Council did not get adequate support from the Borough and County Council on conservation matters.

2 In all, twenty-one written comments were left at the two exhibitions or forwarded to the Authority later, all expressing support for the proposals, although some individuals took the opportunity to make the following additional comments.

3 Overhead cables should under-grounded.

This is a common request in many of the Borough Council's conservation areas. Unfortunately, these types of schemes are very expensive and therefore the electricity distribution companies are reluctant to implement schemes of this nature.

4 A request was made to have the cherry trees pruned on the open space at Chapel Hill.

This request will be forwarded to the Parish Council.

5 Signs need to be displayed that help to pinpoint where the conservation area is on the ground.

The Borough Council is carrying out a phased project over several years to display conservation plaques in all its conservation areas. To date; Ratby, Twycross, Witherley, Newbold Verdon, Shenton, Sutton Cheney, Congerstone, Shackerstone, Desford and the Druid Quarter in Hinckley have had plaques erected. It is also intended in the next two months to erect plaques in Cadeby, Groby, Higham on the Hill, Markfield, Sibson and Stoke Golding, leaving only 10 conservation areas to be signed.

6 One owner on Markfield Road has informed the Authority that her dwelling was built in three phases. The earliest part of her property dates from the 16/17th century and originally was a small stone thatched cottage that once faced onto common land. The second phase is Victorian and the third phase, the front extension, was added in 1900/01. It is understood that the dwelling

was once used as the Bradgate Estate Office. The resident was of the opinion that the garage fronting her property is typical of what was acceptable in 1960 and should be 'celebrated' as such. It was also stated that the property is not two dwellings as stated in the photographic survey and the windows are not plastic.

The additional factual information received is welcomed. The comments in the photographic survey will be amended accordingly. The comment on the property's 1960's garage is noted, however, as expressed in the appraisal, the garage does not reflect the traditional character of the Groby Conservation Area.

- 7 Several requests were made to extend the Groby Conservation area to include a terrace of unique Victorian dwellings sited further up Ratby Road.

Consideration will be given to this request when a review of the Conservation Area boundary is undertaken.

- 8 A request was made for an improvement to the footpaths.

This is an objective in the long term strategy and will need to be considered in liaison with the County Highway Authority.

- 9 The new semi-detached dwellings sited at the junction of Bailey View and Newtown Linford Lane do not blend into the traditional character of the conservation area due to their windows and doors being painted blue. Dark green would have blended better into the village environment.

Under current legislation, the Authority has no control over the colour timber windows and doors are painted. It is assumed blue was chosen by the developer to match the colour of the existing farm outbuildings at the Old Hall.

- 10 One Markfield Road resident stated that although he was in favour of keeping Groby's heritage for the benefit of future generations, he did not agree with some of the comments made in the photographic survey. He felt that it would have been more appropriate to have spoken to him first before making the comments.

The main objective of conservation appraisals is to draw attention to the strengths and weaknesses of conservation areas. In many instances, modern dwellings and extensions do not reflect the traditional character of a conservation area due to their design, siting and use of modern materials. It is appreciated that many owners have invested considerable finance to improve their properties. Unfortunately, these do not always respect the traditional character of the conservation area. It is only by drawing attention to these particular issues that lessons can be learned for the future. With regards to speaking to owners first or sending them extracts from the photographic survey, this would be most time consuming and expensive. This is one of the main reasons why exhibitions are held in order that residents can comment on the proposals put forward before approval by the Borough Council.

- 11 A request was made for more car parks to be provided in the village centre and that on-street parking spaces should be limited to a two hour maximum

stay.

It is considered that parking in the Groby Conservation Area is about the norm for a village of its size. Public parking is provided at the Village Hall and library together with private parking facilities at the pub, local store and club. On street waiting restrictions are matters for the County Highway Authority to consider.

- 12 One resident felt that all modern walls in the conservation area should be replaced with traditional stone walls.

The Borough Council has been pro-active in Groby and other conservation areas in helping to retain existing stone walls and encourage new brick and granite walls to be built. In many instances, small financial contributions have been given from the Environmental Improvement Budget to encourage the retention and building of new walls. This initiative is proving successful and is making a significant contribution to the visual appearance of the conservation areas.

- 13 Other historical information has been forwarded together with reference to several minor inaccuracies.

The appraisal and photographic record will be amended where appropriate.

APPENDIX B

HOLLYCROFT CONSERVATION AREA EXHIBITION

SUMMARY OF CONSULTATION RESPONSES

Officers' comments are noted in italics

The exhibition was well attended by residents living in the vicinity of the Hollycroft Conservation Area and users of Hollycroft Park. The representatives of two local newspapers also came along to view and take photographs of the exhibition. Twenty-two written comments were left at the exhibition with three emails forwarded to the Authority. The following issues were raised:

- 1 A considerable number of residents stated that one of the main reasons they liked living in the conservation area was its 1930's appeal and setting. On this issue, one resident felt the Management plan did not go far enough to protect the conservation area. The Borough Council needs to use the planning process more vigorously to enforce against proposals that do not meet the required standards by way of design and use of modern materials. It was also considered unfortunate that design principles had been ignored in the past. Attention was particularly drawn to the construction of flat roof garages and use of upvc windows and doors. It was considered that re-placement windows/doors should be of timber construction and made subject to planning permission. Two residents drew attention to the double garage currently being built on St George's Avenue which they considered was not in keeping with the 1930's character of the area.

The Hollycroft Conservation Area Management Plan will be helpful to the Authority's Development Control Officers when making decisions on planning applications and for Planning Agents when drawing up schemes. The Planning Authority currently has no control in conservation areas over the change of windows and doors to upvc.

- 2 One resident expressed concern that the opening of the new college building on Lower Bond Street will give rise to parking problems for people visiting Hollycroft Park.

The college is providing some off street parking facilities at its complex. If parking becomes a major problem in the area, it can be monitored and action taken if needed.

- 3 Other residents stated the existing former dairy outbuildings on the Hollycroft were originally stables to the Hinckley Manor House that once stood where the Police Station is now sited. Consideration should be given to including them on the list of historic buildings.

An assessment of the buildings will be carried out.

- 4 It was pointed out that 26 Hollycroft is a traditional building.

This is not in dispute, however, the dwelling has lost much of its traditional character with its cellar being converted into an integral garage and loss of its front garden wall.

- 5 The owner of 22 Hollycroft advised that his stone boundary wall was relatively old and would not be changed to brickwork. The replacement slate roof had retained the character of the house.

This was accepted.

- 6 Another local occupant felt that the Borough Council should thoroughly evaluate the impact on residents affected by conservation area status and be prepared to offer whatever assistance might be necessary to maintain the objectives of the scheme. It would be wrong to expect owners to disproportionately subsidise the scheme. The Authority should clearly explain its obligations and responsibilities to residents affected and be prepared to offer grants/subsidies to assist compliance. It should also make sure that any new residents are made fully aware of the issues before they purchase a property in the conservation area.

The owners of dwellings in the conservation area must take most of the responsibility and expense to maintain their properties in the traditional manner. However, the Authority has given small financial contributions from its Environmental Improvement Budget to schemes that help to improve the appearance of conservation areas. These include schemes to provide traditional brick and stone walls. When purchasing a property in a conservation area, owners should be made aware of this by their solicitor and be given information as to what the designation infers.

Issues relating to Hollycroft Park

- 7 A number of residents stated that it was the park's traditional character and setting that gave them most pleasure when using the park. Many remembered the park from its early days and considered that it was important to retain its 1930's charm. In this respect, they felt that some of the more modern improvements did not always respect the parks traditional character and were concerned over the increasing use of non traditional materials. Another user was anxious that the park is not turned into a recreation ground catering for a wide range of sports and children's play area
- 8 Several members of the Bowling Club praised the Borough Council's Green Spaces Section for the work it did in maintaining the bowling green. Visiting teams often complimented the club on the bowling green's attractive setting in the park. However, some members were concerned that the surface of the Bowling Green was being spoilt by people who are not bowling, being able to walk over it. It was suggested that some form of railing should be erected to prevent this.
- 9 Compliments were given concerning improvements near the band stand. It was also felt the band stand could be used more often.
- 10 A couple of park users were concerned that the up-keep of the park was being spoilt by council maintenance vehicles churning up the grass by cutting corners and running over the grass in wet weather.
- 11 The trees growing along the park boundary to St George's Avenue should be allowed to grow taller. This will help shield properties from golf balls, conkers

and stones that are thrown from the park. Several gaps in the tree/shrub cover also need planting up.

- 12 The stream should to be re-instated.
- 13 The car park gates are often not locked at nights which gives rise to anti-social problems to residents living close-by.
- 14 Parking facilities should be provided close to the bowling green for members, many of which are elderly.

The comments on the Hollycroft Park will be forwarded to the Green Spaces Section for its consideration.

Barry Whirrity
5 February 2011