

Date: 16 May 2011

To: All Members of the Planning Committee

Membership to be agreed at Annual Council

(other recipients for information)

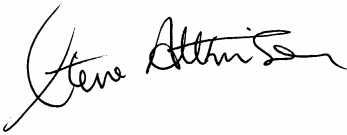
Dear Councillor

There will be a meeting of the **PLANNING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **TUESDAY, 24 MAY 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

A handwritten signature in black ink, appearing to read 'Steve Atkinson', written in a cursive style.

Steve Atkinson
Chief Executive

PLANNING COMMITTEE

24 MAY 2011

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 27 April 2011, attached marked 'P1'.

3. ADDITIONAL URGENT BUSINESS BY REASON OF SPECIAL CIRCUMSTANCES

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

4. DECLARATIONS OF INTEREST

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

5. QUESTIONS

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 'P2' (pages 1 – 78).

RESOLVED

8. CERTIFICATE OF LAWFUL PROPOSED USE

Report of the Deputy Chief Executive (Community Direction) attached marked 'P3' (pages 79 - 83).

RESOLVED

9. APPEALS LODGED AND DETERMINED

Report of the Deputy Chief Executive (Community Direction) attached marked 'P4' (pages 84 – 86).

RESOLVED 10. APPEALS PROGRESS

Report of the Deputy Chief Executive (Community Direction) attached marked 'P5' (pages 87 – 89).

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

27 APRIL 2011 AT 6.30 PM

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

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

In accordance with Council Procedure Rule 4.2, Mr Bray was also in attendance.

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

587 **APOLOGIES**

Apologies for absence were submitted on behalf of Mrs Aldridge and Mr Hall with the substitution of Mr Cartwright for Mr Hall authorised in accordance with Council Procedure Rule 4.1.

588 **MINUTES (P60)**

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

RESOLVED – the minutes of the meeting held on 29 March 2011 be confirmed and signed by the Chairman.

589 **DECLARATIONS OF INTEREST**

Ms Witherford declared a personal interest in application 11/00046/FUL.

Mr Gould declared a personal and prejudicial interest in application 11/00110/FUL but requested permission to speak on the application before leaving the Chamber.

Mr Bannister, Mr Cartwright, Mr Crooks, Mr Gould, Mrs Hall, Mr Inman, Mr Mayne, Mr Nichols and Ms Witherford declared a personal interest in application 11/00181/FUL.

590 **DECISIONS DELEGATED AT PREVIOUS MEETING**

The Head of Planning reported that the decision on application 11/00063/OUT, which had been delegated at the meeting on 29 March 2011, had not yet been issued.

591 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P61)

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) 11/00132/FUL – Change of use from residential (C3 use) to dispensing pharmacy (Sui Generis use) and extension to property, 42 Hill Street, Hinckley – Mr Gulam J Nabi

It was reported that this application had been withdrawn from the agenda.

- (b) 10/00994/FUL – Travellers site for two mobile homes and two transit caravans and erection of a toilet / laundry room, Land adj Hissar House Farm, Leicester Road, Hinckley – Mr C Price

It was reported that this application had been withdrawn from the agenda.

- (c) 11/00046/FUL – Mixed use development comprising light industrial (B1c) storage and distribution (B8) and retail warehousing (A1) with associated parking and access, Jarvis Porter, Coventry Road, Hinckley – Invista Foundation Hinckley Ltd

Whilst generally in support of the officer's recommendation that they approve the application, Members requested an additional condition requiring details of the landscaping scheme to be brought back to the committee. On the motion of Ms Witherford, seconded by Mr Bannister it was

RESOLVED – the Deputy Chief Executive (Community Direction) be granted delegated powers to grant planning permission for the development subject to the conditions contained in the officer's report and late items, the abovementioned additional condition, there being no objection from the Highway Authority, and the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 towards transportation facilities and the provision and maintenance of landscaping. Failure to do so by 28 April 2011 might result in the application being refused.

- (d) 11/00110/FUL – Formation of a paved garden and chess set including the erection of a gazebo, George Ward Centre, Church Lane, Barwell – Mrs Eileen Hemsley

Having declared a prejudicial interest in this application, Mr Gould spoke as ward councillor and left the meeting at 6.51pm.

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

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

- (e) 11/00178/FUL – Demolition of existing detached garage and erection of single storey dwelling, 86 Leicester Road, Hinckley – Mr Alan Makin

Mr Gould returned to the meeting at 7.00pm.

Attention was drawn to a typographical error throughout the report and it was reported that reference to numbers 94, 96 & 98 Leicester Road should be 84, 86 & 88 Leicester Road.

Members expressed concern with regard to drainage, the use of gravel on the driveway, permitted development rights and hedgerows. It was requested that conditions be added requiring that the drainage plans be shared with Members before commencement, that permitted development rights be removed including for erection of garages, that the driveway be constructed of a permeable material excluding gravel and that a scheme to protect the hedgerows be agreed.

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

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

- (f) 11/00190/GDOT – Streetworks monopole supporting antennas to provide 3G radio service for Vodafone and Telefonica O2 also ground based equipment cabinet, Hinckley Road Burbage – Vodafone UK & Telefonica O2

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

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

- (g) 11/00211/FUL – Erection of agricultural building, Charnwood Poultry Ltd, Merrylees Road, Thornton – Mr Stephen Hay

Mr Bray left the meeting at 7.32pm.

Members expressed concern with regard to the application and to ensuring the conditions were enforced. It was requested that a

condition be included to limit the hours of delivery to 8am to 6pm. It was moved by Mr Crooks, seconded by Mr Bannister and

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

Messrs Boothby and O'Shea left the meeting at 8.02pm.

- (h) 11/00224/FUL – Erection of four dwellings, 9 Spa Lane, Hinckley – Mr Frank Downes

Mr Gould left the meeting at 8.03pm.

Members felt that the house proposed for plot one was too close to no. 11 Spa Lane and that a two-storey house was inappropriate for this position. It was agreed that a condition be added that plot one is moved further away from no. 11 Spa Lane or is a bungalow.

RESOLVED – subject to an agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 to provide off-site financial contributions towards play and open space, the Deputy Chief Executive (Community Direction) be granted delegated powers to grant planning permission subject to the conditions contained in the officer's report and the abovementioned additional condition.

- (i) 11/00058/EXT – Extend the time limit for implementation of the extant planning permission (08/00037/FUL), Land between Upper Bond Street, Druid Street and Neale's Yard, Hinckley – Mr Terry Poulton

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

RESOLVED – subject to an agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 to provide affordable housing and financial contributions towards play and open space, the Deputy Chief Executive (Community Direction) be granted delegated powers to grant planning permission subject to the conditions contained in the officer's report, as amended in the late items. Failure to complete the said agreement by 28 April 2011 might result in the application being refused.

- (j) 11/00070/FUL – Erection of agricultural building, Linton Farm, Merrylees Road, Thornton – Mr Mr Andrew Pickup

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

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

- (k) 11/00082/REM – Approval of reserved matters for a residential development consisting of 132 dwellings and associated works, North Warwickshire and Hinckley College, London Road, Hinckley – Mr Darren Pratt

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

RESOLVED – the application be permitted subject to no significant material objections being received prior to the expiry of the consultation period on 18 April 2011 and subject to the conditions contained in the officer's report and late items.

Messrs Boothby and O'Shea left the meeting at 8.39pm.

- (l) 11/00159/FUL – Erection of one new dwelling, Land R/O 1 Thurlaston Lane, Earl Shilton – Mr & Mrs Ian Sands

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

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

- (m) 11/00181/FUL – Extensions and alterations to dwelling, 12 Salisbury Road, Burbage – Mr Keith Lynch

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

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

- (n) 11/00197/FUL – Change of use from warehouse to educational use (use class D1) and minor alterations to building, Unit A Nuffield Road, Hinckley – Mr Andrew Crowter

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

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

- (o) 11/00207/DEEM – Variation of conditions 1 and 5 of planning permission 10/00195/DEEM relating to materials and drawing details, Land adj 7 Alexander Gardens, Hinckley – HBBC

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

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

- (p) 11/00222/CONDIT – Variation of condition nos 3, 15 and 16 of planning permission 09/00922/FUL to carry out the development in accordance with alternative plans and details, Moat House, New Road, Burbage – Adept Care Ltd

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

RESOLVED – subject to the execution of an agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 towards the provision and maintenance of public play and open space facilities, health, highways and library requirements by 23 June 2011, the Director of Community and Planning Services be granted powers to issue full planning permission subject to the conditions contained in the officer's report and late items. Failure to do so by 23 June 2011 might result in the application being refused.

- (q) 11/00249/FUL – Erection of agricultural workers dwelling and detached garage, land adjacent New House Farm, Stapleton Lane, Dadlington – Mr Martin Morris

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

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

592 APPEALS LODGED AND DETERMINED (P62)

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

RESOLVED – the report be noted.

593 APPEALS – PROGRESS (P63)

A schedule was submitted indicating the stages that various appeals against planning decisions had reached. It was noted that the appeal with regard to 287 Brookside, Burbage, had been withdrawn, and the appeal regarding 8 Mill Lane, Earl Shilton, had been dismissed.

RESOLVED – the report be noted.

(The meeting closed at 8.50pm)

REPORT P2

PLANNING COMMITTEE

24 May 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 - 24 May 2011 - NUMERIC INDEX

REF. NO.	APPLICANT	SITE	ITEM	PAGE
11/00166/FUL	Mr Darren Price	Land East Of Heath Road Bagworth	01	2
11/00173/COU	Mr Raymond Fudge	Peppercorn Cottage 8 Market Place Market Bosworth	02	8
11/00184/FUL	Mr John Spiby	Land Opposite Oak Farm Ratby Lane Markfield	03	17
11/00228/FUL	Mr & Mrs J Hitchcock	Rear Of 8 Sutton Lane Market Bosworth	04	26
11/00260/COU	Mr David Johnson	Dennis House 4 Hawley Road Hinckley	05	36
11/00153/COU	Mrs Margaret Ashby	Land At Markfield Lane Thornton	06	43
11/00281/FUL	Mrs Alka Mistry	3 Lime Avenue Groby	07	50
11/00004/FUL	Mr M Ketcher	White Gate Farm Mythe Lane Witherley Atherstone	08	55
11/00296/FUL	Market Bosworth Parish Hall	Market Bosworth Parish Hall 25 Park Street Market Bosworth	09	65
11/00297/CON	Market Bosworth Parish Hall	Market Bosworth Parish Hall 25 Park Street Market Bosworth	10	73

Item: 01
Reference: 11/00166/FUL
Applicant: Mr Darren Price
Location: Land East Of Heath Road Bagworth
Proposal: AGRICULTURAL BUILDING FOR LIVESTOCK AND STORAGE OF HAY
Target Date: 11 May 2011

Introduction:-

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

Application Proposal

This application seeks full planning permission for the erection of a new agricultural building on a roughly rectangular piece of land to the east of Heath Road, Bagworth. The proposed building is to be located close to the northern boundary of the application site and close to the existing field access off Heath Road to the west. The proposed building measures approximately 18 metres x 12 metres (216 square metres of floor space) with a ridge height of approximately 5.8 metres and eaves height of 3.8 metres. The proposals also involve the setting back of the gated access 10 m from the highway to the west. A plan has been submitted with the application that proposes that the building is to be constructed of steel frames with external walls of low level concrete blockwork with Yorkshire boarding over, green steel sheet roof panels, a feed trough to the west elevation and double steel access doors to the south elevation.

The Site and Surrounding Area

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

Technical Documents submitted with Application

A Design Statement has been submitted to support the application. This information states that the proposed agricultural building will be used to provide shelter for the cattle being kept on the site and will replace the existing agricultural building located in the north western corner of the site. This supporting statement also provides some justification for the proposed development. The information states that the use of the land for equestrian purposes was as a result of an agreement with the previous owner to accommodate their horses on the land whilst alternative accommodation was being sought. In addition it states that the applicant is

now in the process of registering the land with DEFRA, has an agricultural business registered with the Rural Payments Agency and has registered with the Cattle Movement Authority to enable a herd book to be kept in accordance with current animal health and welfare policy. The statement concludes that the existing agricultural building is not suitable for the rearing of cattle.

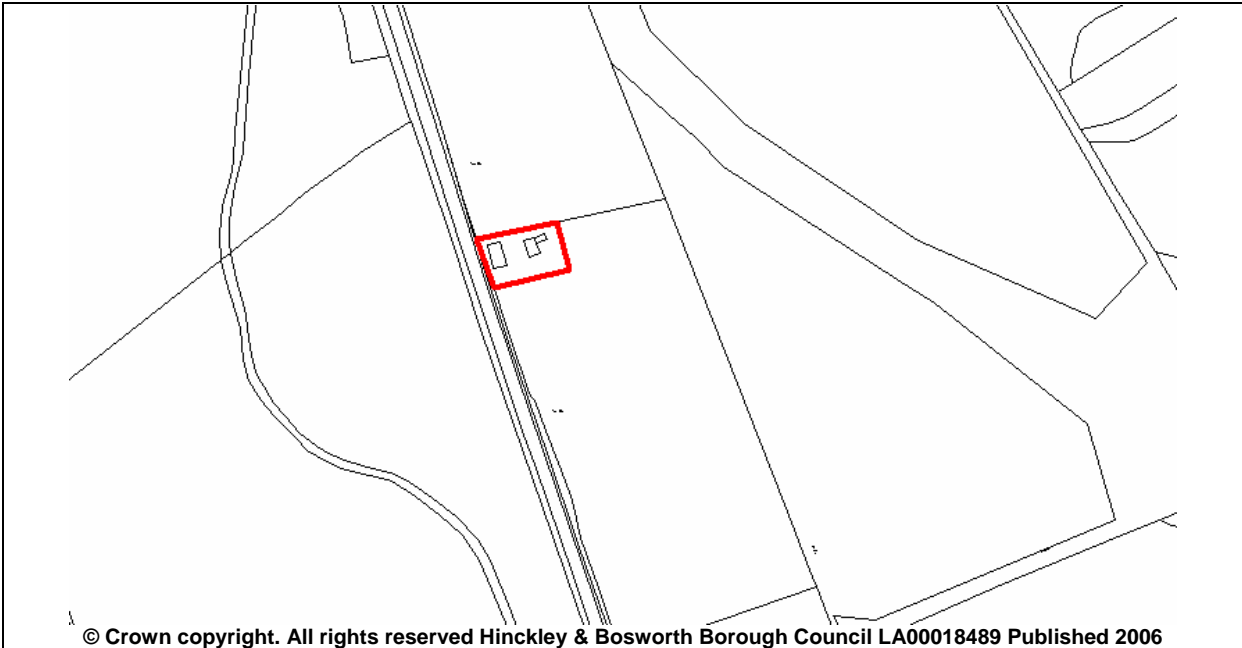
A request was made to the applicant's agent on 21 March 2011 for evidence that the site was being used for cattle rearing. On 22 March 2011 photographic evidence was received from the applicant's agent showing that the land was being used for the grazing of 4 cattle.

A letter was received on 9 May 2011 in support of the applicant's case which stated that the applicant is operating their business as a agricultural operation, cattle has been grazing the land, sufficient information has been provided to justify the agricultural building and that the site could be used for the breeding of horses for sale of horse meat, which is considered to be a legitimate agricultural activity. A further letter was received on 10 May 2011 with evidence demonstrating that there are existing businesses within the United Kingdom that deal in the trading of horse meat.

This application is a resubmission of 10/0770/FUL that was previously refused by members at the planning committee meeting on 5 January 2011. The details submitted with this information are identical to that application with the exception of additional information to justify the proposed development.

History:-

10/00770/FUL	Erection of Agricultural Building	Refused	05.01.12
10/00650/FUL	Erection of Agricultural Building	Withdrawn	15.09.10
10/00448/GDO	Erection of Barn for the Purpose required of Storing Hay	Approved	23.07.10
10/00308/GDO	Erection of an Agricultural Building required	Approved	20.05.10



Consultations:-

No objection has been received from:-

Environment Agency
Head of Community Services (Pollution).

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

A letter of comment was received in support of the case for the applicant. This letter of comment states that:-

- a) the applicant has arranged their business in a proper manner for it to function as an agricultural business
- b) cattle has been grazing the land
- c) the applicant has been persistent in demonstrating that the building is required and explained why this is the case
- d) there is no rationale for a capital outlay on an agricultural building unless it is required
- e) the previous activity of keeping horses on the land was a legitimate agricultural activity
- f) the previous activity of breeding of horses for stock improvement and the selling of surplus stock for meat was a legitimate agricultural activity.

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

National Forest Company
Bagworth & Thornton Parish Council.

Policy:-

Central Government Guidance

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

Regional Policy Guidance

The decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010. Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies. The government's Chief Planning Officer has also written advising that local planning

authorities should still have regard to the SoS's letter of 27 May 2010 and that it should still be regarded as a material consideration. Judgement was recently given 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

No relevant policies.

Local Policy

Local Development Framework Core Strategy 2009

There are no relevant policies within the Core Strategy.

Hinckley and Bosworth Local Plan 2001

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

Policy BE1: 'Design and Siting of Development' seeks to secure attractive development and to safeguard and enhance the existing environment. Planning permission will be granted where the development complements or enhances the character of the surrounding area with regard to scale, layout, design and materials; has regard to the safety and security of property; incorporates landscaping if necessary; ensures that there is adequate highway visibility for road users and adequate provision of parking and manoeuvring facilities.

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

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

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

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

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

type and design. The long term agricultural requirements of the building should also be considered.

Appraisal:-

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

Principle of development

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

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

Members will also recall that a planning application for the erection of an agricultural building was refused at this site at the committee meeting on 05 January 2011. This application is a resubmission of that application which was refused on the grounds that insufficient information was provided to justify the building in connection with agricultural purposes.

Notwithstanding the previous applications relating to the site, this application must be determined on its own merits and on the basis of the information submitted, including the additional information submitted in order to justify the proposed agricultural building. Whilst the erection of an agricultural building on the site may be generally acceptable in principle, in this case and on the information submitted, it is considered that the applicant has failed to demonstrate that there is any agricultural justification for the proposed building for the stated purpose that would outweigh national and local plan policies that seek to protect the character and appearance of the countryside for its own sake and from unnecessary development. As a result, the proposed development is considered to be contrary to Planning Policy Statement 7 and policy NE5 of the adopted Local Plan.

Design and Layout

The design has a low pitched roof and an appearance not untypical of modern agricultural buildings and is therefore consistent with advice contained in the Council's Supplementary Planning Guidance on the Design of Agricultural Buildings. Furthermore the proposed materials of construction are reflective of most agricultural buildings found in the open countryside.

Highway Safety

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

Other issues

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

Letter received in support of applicant's case dated 6 May 2011

As stated above the erection of an agricultural building on the site is considered acceptable in principle. It is considered that insufficient information has been provided to justify the agricultural building on the site. It is not in dispute that the applicant has introduced a small number of cattle onto the land but this is insufficient to justify a larger agricultural building. The applicant has been consistent with the submission of Planning Applications and Prior Notifications for an agricultural building but has failed to provide sufficient information to justify it being used in connection with agriculture.

It is not disputed that the applicant is prepared to finance the erection of an agricultural building. According to the information submitted with this planning application and previous applications in relation to this site the land was used for the grazing of horses. There is no demonstrable or documentary evidence to suggest that these horses were being bred on the land and later sold on for meat. Therefore the opinion that insufficient justification has been provided is retained.

Conclusion

Whilst it is recognised that certain buildings of appropriate design to be used in connection with agricultural operations and activities can be acceptable in countryside locations, the need for any building must be balanced against the need to protect the countryside from unnecessary development. In this case, insufficient agricultural justification has been submitted to demonstrate that the building is necessary or reasonably required in connection with agricultural operations or activities that would outweigh the need to protect the open and undeveloped character and appearance of the countryside. The application is therefore recommended for refusal.

RECOMMENDATION:- REFUSE, for the following reasons:-

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

Reason:-

- 1 In the opinion of the local planning authority, the applicant has failed to demonstrate that adequate agricultural justification exists for the proposed building and as a result

the proposed development would result in an unwarranted intrusion into the open and undeveloped countryside to the detriment of its character and appearance. The proposal would therefore be contrary to Planning Policy Statement 7 and policy NE5 of the adopted Hinckley and Bosworth Local Plan.

Contact Officer:- Scott Jackson Ext 5929

Item: 02

Reference: 11/00173/COU

Applicant: Mr Raymond Fudge

Location: Peppercorn Cottage 8 Market Place Market Bosworth

Proposal: RETROSPECTIVE CHANGE OF USE FROM A1 DELICATESSEN) TO A3 (CAFE)

Target Date: 20 May 2011

Introduction:-

This application is to be considered at Planning Committee as a member of staff has an interest in the site.

Application Proposal

Retrospective planning permission is sought for the change of use from Delicatessen (Use Class A1) to Café (Use Class A3).

The internal floor area of the shop has remained un-changed; however there has been the re-positioning of a counter and display cabinet to create additional space for seating. The application predominantly relates to the ground floor only, with the exception of the toilet facilities that will remain at first floor.

The application seeks the opening hours to be 9 am to 6 pm Monday to Saturday and 10 am to 5 pm Sundays and Bank Holidays. The premises employ two full time and two part time members of staff.

Following concerns raised by officers, additional information has been submitted which states that three tables, each with four chairs have been placed out in front of the premises which have not obstructed the footpath and that an outbuilding to the rear has been used for the storage of tea, some chilled and frozen stock and a separate outbuilding for cleaning tools and domestic cleaning products. Re-consultation was undertaken and expires on 19 May 2011.

The Site and Surrounding Area

The premises are situated in the corner of Market Place which is interspersed with commercial and residential premises. The site is adjoined to the east by No. 10 Market Place a residential premises and to the north west by No.6 Market Place which is a clock shop.

The building is a Grade II Listed Building and is located within Market Bosworth's Local Shopping Centre and falls within Market Bosworth Conservation Area, as defined by the adopted Hinckley and Bosworth Local Plan.

There is free parking to the front of the site on the Market Place.

Technical Documents submitted with application

The application is accompanied by a Design and Access Statement, Schedule of Kitchen Equipment and Heritage Statement.

The Design and Access Statement states that there has been a progressive evolution in the business from a retail delicatessen to one now of being predominantly a tea room and some 80% of trade is now being derived from the purchase of light snacks and drinks consumed on the premises.

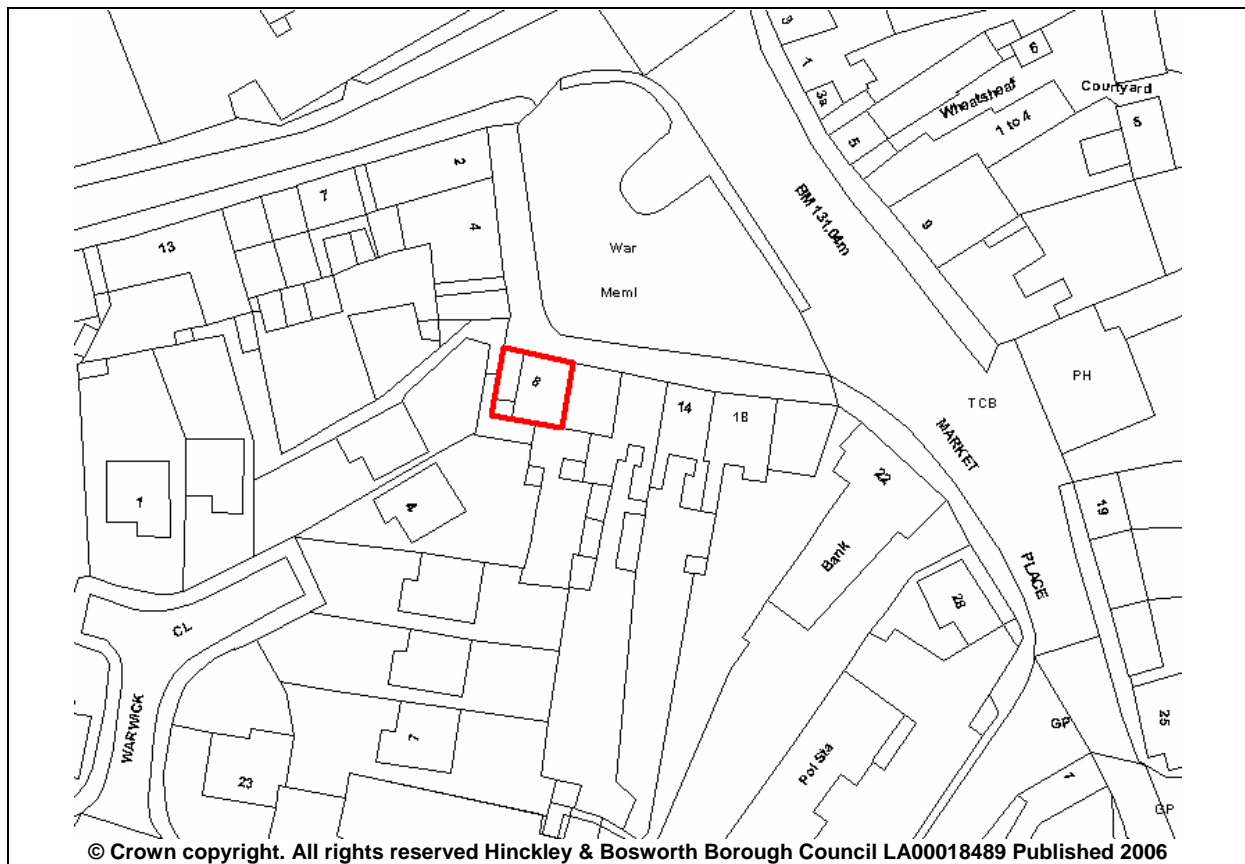
The Schedule of Kitchen Equipment has been provided which is made up of domestic appliances; cooker, grill and oven, fridge, three freezers, two coffee machines, a water boiler, four microwaves, two panini machines, a work top blender, two toasters and an air conditioning unit and wall mounted extractor fan.

The Heritage Statement states that the alterations undertaken in extending the seating area by removing the delicatessen counter and display cabinets and no structural building works have been undertaken.

A list has also been provided of the types of food provided and confirmation that no cooking is undertaken that involves deep fat frying, pressure steaming or griddle work.

History:-

06/00894/CON	Partial Demolition of Property	Returned	13.09.06
06/01002/LBC	Demolition of existing stairwell and erection of new stairwell with alterations to dwelling	Approved	01.11.06
06/00893/FUL	Demolition of existing stairwell and erection of new stairwell with alterations to dwelling	Approved	01.11.06
02/00442/COU	Change of use of part of shop to eating area	Approved	17.06.02
01/01151/LBC	Extension and alterations to Premises	Approved	04.01.02
01/01160/FUL	Extension and alterations to premises	Approved	07.01.02
98/00681/LBC	Alterations and extension to provide ground floor shop and first floor flat	Approved	11.11.98
98/00682/COU	Alterations and extension to provide ground floor shop and first floor flat	Approved	11.11.98



Consultations:-

No comments from:-

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

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

Market Bosworth Parish Council raises no objections subject to a restriction by condition to the number of tables and umbrellas on the pavement at the front.

Site notice displayed and neighbours notified.

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

- a) likely that the premises is being sold
- b) potential for smell and fumes from cooking to increase with new owners
- c) increase in noise from both kitchen equipment and additional persons on the premises through volume and opening hours
- d) change in cooking methods, additional kitchen equipment/extraction in the future and proximity to neighbour
- e) proximity to residential premises/ Patio and garden located directly next to kitchen and food sheds/ location is unsuited to a restaurant due to the proximity of residential properties
- f) insufficient room for cooking and could lead to dangers/ Potential health and safety issues with increase in cooking
- g) the A3 use could lead to extended opening hours/restaurant/licensing conditions

- h) encroachment by the tables and chairs onto the pavement and restricting the access to Warwick Close via the gate in the corner of Market Place
- i) pedestrian access required to rear/kitchen door opens outwards/food storage in outbuildings has its door permanent propped open, restricting access
- j) in-sufficient room as have to use outbuildings
- k) potential enforcement issues with previous A1 use
- l) seek restrictions on seating and signage
- m) bikes being lent on walls and restricting access
- n) further commercialisation would alter the characteristics of the square
- o) single skin wall, no fire barriers in place.

At the time of writing the report comments have not been received from Ward Members.

The consultation period remains open at the time of writing and closes on 19 May 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' 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.

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

Planning Policy Guidance Note 24 (PPG24): '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.

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 recently given 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

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

Policy 1 seeks to secure the delivery of sustainable development.

Local Development Framework Core Strategy 2009

Policy 11: 'Key Rural Centres Stand Alone' states that the focus is to consolidate and improve existing services within the village. More specifically to Market Bosworth it is states that additional employment provision and tourism will be supported and that all new development should respect the character and appearance of the Market Bosworth Conservation Area.

Hinckley and Bosworth Local Plan 2001

Policy Retail 7: 'Local Shopping Centres' is a partly saved Local Plan policy, applicable to retail development outside the Area Action Plan boundary and seeks to grant planning permission for retail development in a number of named local shopping centres.

Policy Retail 8: 'Change from Retail Use within Local Centres' states proposals for a change of use from retail use of premises located in local centres will be considered on their merits and that permission will be granted unless the proposed development would have an adverse effect on the overall retail development of the centre, a seriously detrimental effect on the amenities enjoyed by occupiers of adjoining residential property and the general character of the locality in terms of noise, smell, litter or disturbance, generation of additional traffic which would be detrimental to highway safety or the removal of the shop frontage.

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

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

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

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

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 11:30 pm, or earlier where the proposed use is in a primarily residential area, and such a restriction would be in the interests of residential amenity.

Appraisal:-

The main considerations with regard to this application are the principle of development, the impact of the proposed change of use upon residential amenity including odours, noise and general disturbance, highway considerations, impact on the Historic Fabric, Character, Appearance and Setting of the Listed Building and the Market Bosworth Conservation Area, and other matters.

Principle of Development

The site affords retail designation through Policy Retail 7 – Local Shopping Centres and Policy Retail 8 – Change from Retail Use within Local Centres states that change of use from a retail use will be considered on its own merits. The Council's Supplementary Planning Document on Shopping and Shop Fronts (SPD) states that the best location for cafes is normally within main and local shopping centres. As such there is a presumption in favour of A3 uses within local shopping centres, providing that all other planning matters can be adequately addressed.

The principle of the consumption of food and drink on site has already been established through the previous grant of planning permission (ref: 02/00442/COU) for the change of use of part of the shop to eating area. Therefore the main consideration in the determination of this application is whether the proposed changes of use to a solely A3 would have any significant material impacts over and above that currently exerted from the premises as an existing A1 delicatessen with part of the shop used as an eating area.

In response to a neighbouring letter of objection, given the level of sit in-eating already approved on site, combined with the above mentioned policy designation, there is a no in-principle objection to a café use within this setting, providing that all other planning matters can be adequately addressed.

Impact upon Residential Amenity

The neighbouring residential property No. 10 Market Place adjoins the site to the east and access to the rear of this property is gained via a gated entrance in the corner of Market Place which follows round to the rear of the application premises. There are both ground and first floor windows in No's 10's rear elevation serving habitable rooms and the presence of a 1.8 metre close boarded fence with a gate.

Objections have been raised in relation to this application on the basis of potential impacts upon noise and fumes on the adjacent property and potential health and safety issues within the kitchen.

The accompanying application states that an existing air vent was previously approved within a previous application for the extension of the kitchen. The Head of Community Services (Pollution) has confirmed that the café has been operating since February 2009 and no complaints have been received since this time, and has confirmed that they have no objection to the scheme. As such, it is considered that the scheme does not give rise to an unacceptable disturbance to neighbouring properties in terms of noise and fumes.

There is an outbuilding to the rear of the site which has been used for the storage of stock. It is considered that throughout the day this could give rise to a level of comings and goings between the kitchen and the outbuilding. However, it is considered that the given the presence of the 1.8 metre close boarded wooden fence occupying the common boundary, that these trips to the outbuilding would not be visible from the rear amenity space of No.10 Market Place. In addition, the level of noise and disturbance from general comings and goings associated with the use are not considered to be significantly over and above that exerted by the previous use where stock was stored.

Concerns have been raised that there is a potential for the development of the business and that therefore an increase in the method and level of cooking should be considered. This application is retrospective and therefore the application seeks to regularise the use and the methods of cooking and types of foods currently being cooked. The application has, however, been considered on the basis that an approved A3 could allow for a potential change of menu and potential increase in the level of cooking, however this is not considered to be significantly detrimental to the occupiers of the adjacent premises given the restriction in the hours of use (which is to be secured by the imposition of a planning condition). A number of objections have also been raised regarding the site being sold and other owners taking over. It is considered that the fact that the site may be potentially sold in the future is not a planning consideration. For the avoidance of doubt, whilst an A3 use incorporates restaurants and cafes, this application seeks consent for the change of use to a café and for the proposed hours of use, therefore an application would need to be made to the Local Planning Authority to extend this hours of operation, should this be sought in the future. The impact on any changes of use would then be considered at that time.

It is considered necessary to attach a planning condition restricting the hours of use to the day time only, given that the site is located within an area which is interspersed with residential premises, in order to safeguard the amenities of the nearby residents.

In summary, it is considered that the subject to the use operating within the defined hours, it is not considered that there would be a significantly detrimental increase in the level of noise from cooking and smells and disturbance from general coming and goings to the rear of the site which would sustain a reason for refusal. With no objection from the Head of Community Services (Pollution) the existing noise and odour mitigation measures are considered acceptable. It is therefore considered that this is in accordance with guidance contained within PPG24 and Saved Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Highway Considerations

The application form has stated that there are 25 spaces available within the car park which adjoins the site to the north. It is considered that it is unlikely that there would be this number of spaces available at all times and solely for the use of the café, however it is considered that sufficient car parking spaces are located close to the site. The scheme has been considered by the Director of Environment and Transport (Highways) whom has no objection to the scheme.

In response to a neighbouring and parish representations, this application seeks retrospective change of use of the building only and does not include the outside temporary seating. As assessment would need to be undertaken to ascertain whether planning permission is required for the temporary seating should the owner wish to continue with it. A note to applicant advising that the application if approved does not include the outside seating will be added to the decision notice. In addition, the Director of Environment and Transport (Highways) states that 'furniture' onto the public highway will require a licence from the local Highway Authority. For the avoidance of doubt, a private access right is not a material planning consideration.

In summary, it is not considered that there would be any significant impacts upon highways safety. Accordingly, the development accords with Saved Policy T5 of the adopted Hinckley and Bosworth Local Plan.

Impact on the Historic Fabric, Character, Appearance and Setting of the Listed Building and the Market Bosworth Conservation Area.

The premise is a Grade II Listed Building and located within the Market Bosworth Conservation Area. For the avoidance of doubt a Listed Building application is not required as there are no extensions or alterations proposed externally or internally.

There have been concerns raised in respect that the commercialisation of the site would alter the characteristics of the square. It is not considered that the retail character of the area will be significantly changed given that the premises have been operating with an eating area to the shop since 2002 and since 2009 as a café. In addition, in physical terms, it is considered that the change of use relates entirely to the re-positioning of furniture within the interior and that this does not therefore impact upon the architectural or historical structure of the listed building or detract from its setting or impact upon the character and appearance of Market Bosworth Conservation Area.

For the avoidance of doubt, this application seeks the change of use only and the siting of the tables and chairs outside and is therefore not for consideration under this application.

In summary, the proposed change of use of the building would not result in any additional adverse impacts upon the character and appearance of the Listed Building and the Conservation Area over and above that of the existing use and surrounding uses. As such it is considered the scheme would not impact upon the architectural or historical structure of the listed building or detract from its setting and at least preserves the character of Market Bosworth Conservation Area. It is therefore considered that this is in accordance with guidance within PPS5 and Saved Policies BE4 and BE7 of the adopted Hinckley and Bosworth Local Plan.

Other Matters

In response to a letter of objection raised regarding concerns of the current A1 restrictions, this complaint has been forwarded to the Council's Enforcement Team. It is considered, however that the current operations may have been in breach of a condition but that this application has now been submitted to regularise the use of the A3 use (which is currently in operation). As such any future action is likely to be dependent upon the decision of this application.

The single skin wall and no fire barriers in place and bikes being lent on walls and restricting access are not material planning considerations.

Conclusion

In conclusion, by virtue of the sites positioning within a local shopping area, there is support for A3 uses within the location, subject to all other planning matters being adequately addressed.

The impact on neighbours, by virtue of noise and smell has been considered by the Head of Community Services (Pollution) whom raise no objection. The level of noise and disturbance from general comings and goings associated with the ongoing use are not considered to be significantly over and above that exerted by the previous use.

It is considered that there would not be any significant material impacts upon highway safety or the architectural or historical structure of the listed building or detract from its setting but will preserve the character of Market Bosworth Conservation Area.

Accordingly the proposal is recommended for approval subject to the imposition of relevant planning conditions.

RECOMMENDATION: - Permit subject to no significant material objections being received prior to the expiry of the consultation period on 19 May 2011 and the following conditions:-

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it is considered characteristic of the surrounding area and would not be detrimental to residential amenity, highway safety and would not be detrimental to the architectural or historical structure of the listed building or detract from its setting and the scheme is considered to preserve the character and appearance of Market Bosworth Conservation Area.

Hinckley and Bosworth Local Plan (2001):- Policies Retail 7; BE1; BE4; BE5; BE7; T5; SPD on Shopping and Shop Fronts

Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (2009): - Policy 11

- 1 The development hereby permitted shall not be carried out otherwise than in complete accordance with the details: Site Location Plan (Scale 1:500), Plan entitled Current Ground Floor Layout (Scale 1:50) received by the Local Planning Authority 25 March 2011.
- 2 The premises shall not be open to the public for the use hereby approved outside the hours of 09:00 to 18:00 Monday to Saturday and 10:00 to 17:00 Sundays and Bank Holidays.

Reasons:-

- 1 For the avoidance of doubt and in the interests of proper planning.
- 2 To protect the amenities of the adjoining residential property in accordance with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Ebony Mattley Ext 5691

Item: 03

Reference: 11/00184/FUL

Applicant: Mr John Spiby

Location: Land Opposite Oak Farm Ratby Lane Markfield

Proposal: ERECTION OF AGRICULTURAL BUILDING

Target Date: 14 June 2011

Introduction:-

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

Application Proposal

This application seeks full planning permission for the erection of an agricultural building for the fattening and keeping of livestock, in particular cattle. The dimensions of the proposed agricultural building are 30.5 m wide x 60.1 m long with a ridge height of 9.4 m. This provides an internal floor area of 1770 m². This building will be sited 15 m to the south of the existing barn at the site. It is also proposed to partially demolish and refurbish the existing barn at the site which measures 14.5 m wide x 18.8 m in length for use as a grain store and storage of machinery. A concrete apron measuring 6 m in width is also proposed around the southern and northern elevation of the proposed agricultural building for circulation purposes together with hardstanding to form an access into the site.

The Site and Surrounding Area

The application site consists of an agricultural field measuring 0.96 ha in area which at the time of the site visit was used as grazing land for sheep. The area around the site is agricultural. There is an existing gated access from Ratby Lane which is located directly opposite the vehicular access to Oak Farm. Oak Farm is established as a commercial livery business. The land is gently sloping from the south to the north and is bordered by low level hedges (approximately 1.5 m in height) to all boundaries. There is an existing agricultural building on the site set back from the vehicular access by approximately 10 m and is constructed from grey profile sheeting and grey block-work. This is currently used to house young cattle. The site is located within the National Forest.

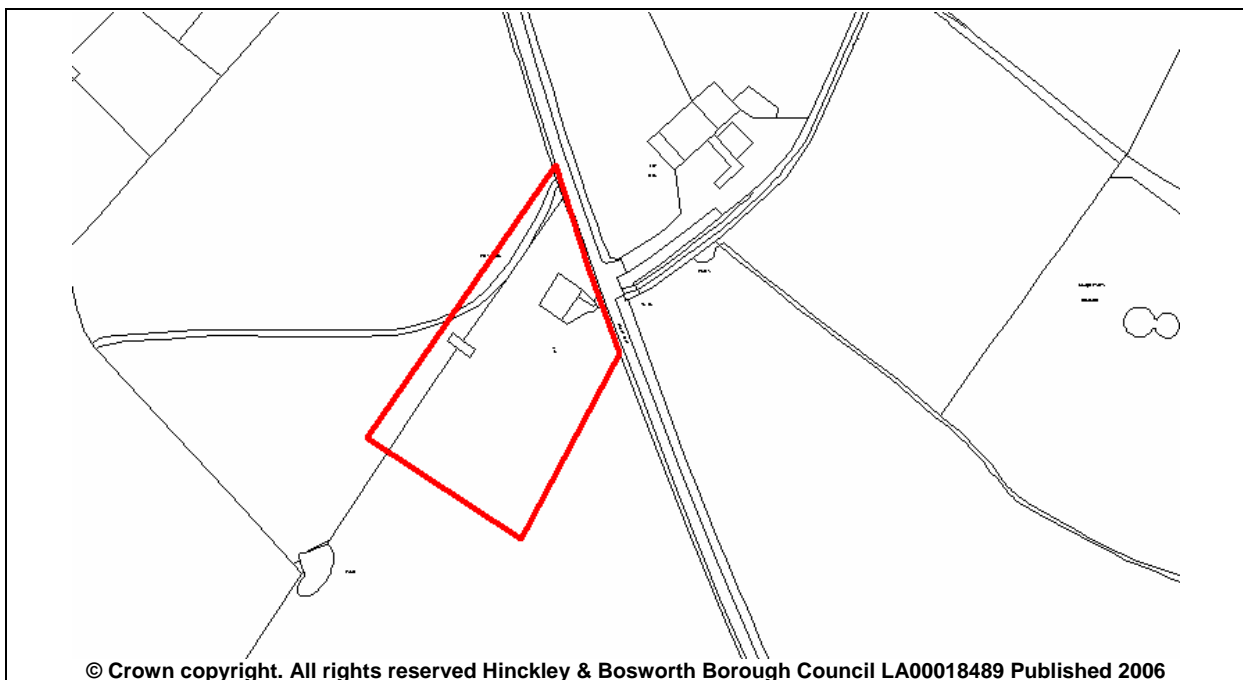
Technical Documents submitted with application

The application is accompanied by a design and access statement which states that the purpose of the proposed agricultural building is for the suckling of cows and calves and for the wintering and fattening of cattle. The applicant is seeking to relocate agricultural buildings from their existing farm at Lower Grange Farm in Markfield to incorporate them into a larger agricultural building at this site. Lower Grange Farm is located approximately 0.6 miles to the north of the site. The statement also confirms that landscaping is proposed to the east and west of the proposed agricultural building using native planting species.

Additional information was received from the applicant's agent on 4 April 2011 which stated that the reasoning for the relocation of existing agricultural operations from Lower Grange Farm is that planning permission (09/01009/OUT) was allowed at appeal for residential development at Lower Grange Farm. This application involved the demolition of the majority of the agricultural buildings belonging to Lower Grange Farm, with the farmhouse and a small number of smaller traditional barns being retained by the applicant.

History:-

None in relation to this specific site.



Consultations:-

No objection has been received from:-

Severn Trent Water Ltd
Environment Agency- Lower Trent
The Leicestershire Constabulary Crime Reduction Officer.

No objection subject to conditions have been received from:-

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

No objection subject to notes to applicant Head of Community Services (Land Drainage).

Site notice was displayed and neighbours notified.

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

- a) in terms of its excessive size the proposed agricultural building is out of keeping with existing farm buildings in the area
- b) the proposed agricultural building has the capacity to accommodate significant numbers of livestock, thereby resulting in odour, noise and vermin issues
- c) impact of development upon the character and appearance of the National Forest and an Area of Outstanding Natural Beauty (AONB)
- d) increase in the amount of waste being disposed of
- e) increase in waste being spread over the fields
- f) increased noise from farming machinery working the land
- g) increased traffic movements along Ratby Lane to and from the site
- h) the scale of the proposed agricultural building is excessive and totally out of character
- i) the building is located too close to residential properties
- j) a planting scheme should be undertaken to screen the development
- k) detrimental impact on the countryside
- l) a balcony belonging to Prospect House, Ratby Lane will be rendered unusable
- m) noise generated from the mechanical feeding operation
- n) devaluation of local property prices
- o) safety hazard to pedestrians along Ratby Lane as a result of increased traffic
- p) impact of development upon the health of local residents
- q) increased odours, exacerbated by the existing odours generated from the pig farm located in the surrounding area
- r) increase in HGV traffic along Ratby Lane
- s) impact on increased traffic flows, including HGV's, on the junction of Thornton Lane and Ratby Lane
- t) local roads cannot accommodate HGV traffic
- u) the building should be re-sited
- v) if approved, the proposed development would set a precedent for further development of this nature and scale in the area
- w) the method of waste disposal doesn't accord with current legislation for safe disposal and treatment
- x) impact on view
- y) an EIA should be undertaken.

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

Markfield Parish Council
Ratby Parish Council.

Policy:-

Central Government Guidance

Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas identifies the Governments objectives for rural areas and seeks to raise the quality of life and environment in such areas and promotes more sustainable patterns of development. All development within rural areas should be well designed, in keeping and scale with its location and sensitive to the character of the countryside.

Regional Planning Guidance

The decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010. Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies. The government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS's letter of 27 May 2010 and that it should still be regarded as a material consideration. Judgement was recently given 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

There are no policies specific to this planning application.

Local Development Framework Core Strategy 2009

There are no policies specific to this planning application.

Hinckley and Bosworth Local Plan 2001

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; for the change of use, re-use or extension of existing buildings or for sport or recreation purposes, 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 NE21 states that permission will only be granted for built development in the National Forest where development is of a high quality. The design and materials of construction of buildings and the layout and planting of open space between them should reflect the local architecture and the setting of the proposal in the forest.

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

Design of Farm Buildings Supplementary Planning Guidance (SPG) (2004) states that the position of a new farm building or structure is usually dependant on its function and the space available. There are other factors that should be taken into account, such as the visual importance of the building, both in the wider landscape, and within the farm complex itself. The function of building will influence the scale and type of building and the long term agricultural requirements of the building should also be considered.

Appraisal:-

The main considerations with regards to this application are the principle, impact on the character and appearance of the countryside, impact on neighbours and highway implications.

Principle of development

Policy NE5 of the Local Plan protects the countryside for its own sake and restricts the type of development that can take place. The supporting text to the policy provides examples of the types of development which would normally be considered acceptable, one of which is agriculture. As the proposal is for an agricultural building, the development is one that would normally be considered acceptable and therefore the principle of agricultural development in this location for this type of use is not contrary to policy. However the policy further requires that such acceptable uses should not have an adverse effect on the appearance or character of the landscape and that any development should be in keeping with the scale and character of the general surroundings. It is considered for the reasons discussed in the next section that the proposed development is not in keeping with the scale and character of the general surroundings and it will have an adverse effect on the appearance of the landscape. Policy NE21 provides guidance for development within the National Forest and sets criteria to be met in order for development to be considered acceptable, it requires regard to be had to the existing landscape character of the site and surrounding area, along with the physical, ecological and environmental constraints of the site. Furthermore it requires any new development to provide additional tree planting where possible. The design of new developments should be of high quality, reflecting local architecture and the setting of the proposal within the National Forest.

Impact on the character and appearance of the countryside

The site is located in a rural landscape and is largely characterised by a mix of open and closed fields with hedge planting to the boundaries. The design, scale, massing and proposed materials of the proposed agricultural building is characteristic of most modern agricultural buildings with concrete block work and metal profile sheeting to the upper floors and roof. This profile sheeting will be constructed from Yorkshire Boarding, a material common to modern agricultural buildings. The existing agricultural building at the site will be refurbished and finished in the same materials. Essentially the proposed and refurbished barns will be modern multipurpose agricultural buildings.

The main issue is the proposed scale and massing of the proposed agricultural building. The proposed agricultural building will measure 30.5 m wide x 60.1m long with a ridge height of 9.4 m. The topography of the land surrounding the site is generally flat and is occupied by an existing farm building of modest dimensions measuring 14.5 m wide x 18.8 m with a ridge height of 5 m. Taking into account the topography of the site, the proposed agricultural building will become a dominant and bulky feature on the landscape, to the detriment of the character and appearance of the countryside. By virtue of its siting, materials of construction and overall bulk the proposed agricultural building will dominate the landscape. It should also be noted that the absence of any significant existing screening along the boundaries of the site will result in the proposed agricultural building being highly visible within the countryside.

Whilst it is conceded that the purpose of the proposed building is acceptable, it is contended that little consideration has been given to the bulk and height of the building and its relationship to its rural setting. Although landscaping is proposed at 10 m intervals along the east and west boundaries to help screen the proposed development it is considered that the agricultural building will be clearly visible from Ratby Lane, to the detriment of the visual amenity of the countryside and the National Forest. It will also take a considerable length of time for the landscaping scheme to establish itself, thereby resulting in a large, bulky and incongruous building being sited in the open countryside, to the detriment of the visual amenity of the area. Whilst quicker landscaping scheme could be established there would be concern about that being a natural feature within this sensitive landscape.

It is also considered that the proposed development has no regard to the existing barn at the site which is set to be refurbished and utilised as a machinery and feed store. In terms of its scale and bulk the proposed agricultural building will dominate the existing barn and this existing barn would be viewed as being subservient within the open countryside and National Forest.

The applicant's agent has provided further supporting information to justify the scale of the proposed agricultural building. The supporting information states that the existing agricultural buildings at Lower Grange Farm equate to 1330 sq metres in area and are used in connection with the existing livestock operations. The larger farm building is required to house all of the applicant's livestock in one location and to provide a large indoor space within a modern agricultural building to allow the farm operations to run more efficiently. However the difference in floor area between the existing farm buildings at Lower Grange Farm and the proposed agricultural building is approximately 440 square metres, thereby resulting in a much larger agricultural building to house the same amount of stock, namely 180 cattle. This is considered to be a significant increase in the floor area, which in turn results in a proposed development that has a greater impact on its countryside location. It should be noted that additional information has been requested from the applicant's agent to justify the height of the proposed agricultural building and once received; this information shall be reported and appraised as a late item. It is considered that the applicant has not demonstrated an operational requirement for a building of this footprint and height in this location.

Impact on neighbours

The nearest residential property is The Blossoms located 220 m to the north. Due to the nature of the proposals there is the potential for odour and noise to be generated. However this would largely be contained within the proposed agricultural building and would be noise/odours that would be commonly associated with an agricultural site within the open countryside. Additional information was received from the applicant's agent on 4 April 2011 which stated that waste matter will be stored in heaps sited 400 m away from Oak Farm. However due to the intensity and scale of the proposed use a significant amount of waste will be generated on a weekly basis which will require continuous disposal to ensure that it doesn't result in a hazard to human health or generate significant odours. Further information received from the applicant's agent on 5 May 2011 states that there is no intention to heap manure piles in the fields for continuous periods of time. The intended practice is for the building to be cleaned out when the cattle is turned out for grazing in May/June and then placed in heaps until it is spread onto the fields in early autumn as fertiliser.

In view of the potential for odours to be generated from the waste material it would have been considered prudent to impose a planning condition that the manure heaps be covered whilst they are being stored ready for use on the fields. This would reduce the potential for the generation of odours and prevent the run-off of waste into local watercourses during periods of rainfall. This condition would have been imposed at the request of the Head of Community Services (Pollution). Once this condition was implemented it would have ensured that waste is disposed of and stored on the site in the correct manner.

Due to the agricultural nature of the area it is expected that there will be odours generated from agricultural practises taking place. This includes the existing odours generated from the pig farm located to the west of the site and smells generated from livestock on the application site. As stated above the odours generated from the 180 cattle sited within the proposed agricultural building will largely be contained and will not exacerbate existing smells associated with this countryside location.

In terms of vermin ingress and odour control this can be reduced through good building management and maintenance. To reduce the potential for odour and vermin a condition could be imposed at the request of the Head of Community Services (Pollution) for a building management plan to be submitted to the Local Planning Authority and implemented in accordance with the agreed details.

The noise generated from the proposed development will be from mechanical feeding using a teleporter machine on a daily basis. This will take place within the existing building and not externally. Therefore the potential for loss of amenity to properties in the vicinity through noise disruption is considered to be negligible. No information has been provided to suggest that there will be an increase in farm machinery working the fields surrounding the site. Therefore comments made in relation to increased noise from farm machinery are unfounded.

An important point of note is that the proposed agricultural building will primarily be used for the wintering and fattening of cattle. These cattle will then be turned out in early summer onto surrounding grazing land. Therefore comments made in relation to factory farming, the health issues associated with factory farming and the potential for these health issues to affect the local population are unfounded.

Given the agricultural nature of the area an agricultural building within this part of the National Forest is considered acceptable in principle. There are no Areas of Outstanding Natural Beauty (AONB's) affected by the proposed development.

An objector who resides at Prospect House has stated that the proposed development will result in their balcony being unusable due to the potential odours being produced. Prospect House is located 300 m to the north of the proposed development. Due to the waste largely being contained within the proposed building and it being sited in covered heaps away from the proposed agricultural building and taking into account the separation distance to this property the potential for loss of amenity to this objector is considered to be negligible.

Highway issues

It should be noted that the existing vehicle access will be improved and a new gated access put in place. The Director of Environment and Transport (Highways) has raised no objection to the proposals subject to conditions requiring improvements to the access to ensure visibility is acceptable so as to have no adverse impact on highway safety and that the gate be set back a minimum distance of 10 m from the Highway edge.

There is no information submitted with the application to indicate that the number of vehicle movements to the site will increase. It is accepted that the number of trips made by the applicant to the site will increase as they are seeking to consolidate their existing livestock in one location. In addition no information has been provided with the application to indicate that there will be HGV's accessing the site. It should be noted that there is a highway weight restriction along this section of Ratby Lane which is limited to 7.5 tonne vehicles only. However there will be an infrequent requirement for HGV's to access the site for the purposes of delivering materials for constructing the agricultural building, the delivery of feed and for transporting livestock from the site. Therefore HGV movements along Ratby Lane will be limited in their number and the potential for traffic incidents or HGV's being hazardous to pedestrians would be minimal. The agricultural use of this field is not something that can be controlled by the planning process.

Other issues

Need

The farm holding is in excess of 100 ha of agricultural land and therefore it is not unreasonable to assume that buildings are required for the successful running of the business. However the main issue is whether sufficient agricultural justification has been provided with the planning application to demonstrate that an agricultural building of this scale and prominence is required, taking into account the existing agricultural business carried out by the applicant. Further information has been requested from the applicant's agent in terms of justifying the proposed agricultural building; once this information has been received it shall be reported and appraised as a late item.

Property Prices

The letter received from the objector raised concern that the proposed development would result in the devaluation of local property prices. This is not a material planning consideration when determining planning applications.

Absence of an EIA (Environmental Impact Assessment)

It should be noted that the proposed development doesn't fall within the specific criteria to determine whether it is EIA dependent. Therefore an EIA is not a requirement in the determination of this planning application.

Impact on view

Impact on view is not a material planning consideration when determining planning applications and is therefore not applicable to this case.

Precedent for further development

It has been stated that if this development is permitted then it will result in further development of this nature and scale. It should be noted that a planning application would be required for any future agricultural development and such an application would be considered on its own merits.

Conclusion

In conclusion the proposed development, by virtue of its scale, mass, bulk, design and siting is considered to be harmful to the character and appearance of the open countryside, exacerbated by the relatively flat topography of the site and the absence of any substantial existing screening. The applicant has also failed to demonstrate that there is an agricultural justification for a building of this size and scale having regard to the agricultural business carried out by the applicant. Furthermore the proposed agricultural building constitutes inappropriate development within the National Forest and doesn't respect its setting within the Forest.

RECOMMENDATION:- REFUSE, for the following reasons:-

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

Reasons:-

- 1 In the opinion of the local planning authority, the applicant has failed to demonstrate that adequate agricultural justification exists for the proposed agricultural building and as a result the proposed development would result in an unwarranted intrusion into the open and undeveloped countryside to the detriment of its character and appearance. The proposal would therefore be contrary to Planning Policy Statement 7 and policy NE5 of the adopted Hinckley and Bosworth Local Plan.
- 2 In the opinion of the Local Planning Authority the proposed development by virtue of its scale, mass, design and siting is inappropriate development in the countryside. It is considered that such development will have an adverse effect on the appearance and character of the landscape and is out of keeping with the scale and character of the existing site and general surroundings. It is therefore contrary to policies BE1 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 3 In the opinion of the Local Planning Authority the proposed development by virtue of its scale, mass, design and siting is inappropriate development in the national forest. It is considered that the development does not reflect the setting of the proposal in the national forest. It is therefore contrary to policy NE21 of the adopted Hinckley and Bosworth Local Plan.

Contact Officer:- Scott Jackson Ext 5929

Item: 04
Reference: 11/00228/FUL
Applicant: Mr & Mrs J Hitchcock
Location: Rear Of 8 Sutton Lane Market Bosworth
Proposal: ERECTION OF ONE DWELLING, DETACHED GARAGE AND FORMATION OF ACCESS
Target Date: 20 May 2011

Introduction:-

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

Application Proposal

This application seeks full planning permission for the erection of a detached dwelling and garage together with the formation of a new access and drive off Shenton Lane in Market Bosworth. The proposed dwelling has the appearance of a two-storey detached property but the plans include the formation of basement accommodation for use as a family room, gym and cinema room. The garage is proposed to the side of the dwelling and consists of a double bay garage measuring 6 m x 6 m with a ridge height of 5.8 m. The proposed materials of construction for the garage are brick pillars, pantile roof, timber boarding and timber doors.

The dwelling proposed comprises a 7.1 m high pitched roof with a pitched roof timber framed canopy to the front door. Two dormer windows are proposed within the front roof slope together with a small roof light. To the rear roof slope is another small roof light and dormer window together with a pitched roof gable that projects 3.5 m from the property. A dormer window is also proposed in the roof slope of the projecting roof gable which will face a northerly direction. The materials of construction for the proposed dwelling are brick work to the ground floor, oak frames and render to the upper floor, timber boarding to the utility projection and a pantile roof. An enclosed garden is proposed to the rear.

Amended plans were received on 3 May 2011 showing the following alterations:-

- a) the ridge height of the detached garage reduced by 1 m
- b) the garage sunk into the ground by 0.3 m
- c) timber cladding removed from the detached garage
- d) the garage re-sited 1.5m in from the rear boundary
- e) timber cladding removed from the utility projection on the dwelling
- f) raising of the window cill height to bedroom 1 on the rear elevation.

The Site and Surrounding Area

The site is a vacant piece of overgrown garden land situated to the south of Market Bosworth Market Place, within the conservation area. The ground level is approximately 1 m higher than the highway to the north west known as Shenton Lane. There are a number of existing trees on the site, most of which are situated along the boundaries, there is one horse

chestnut sited centrally within the site. There is a 1.8 m hedge to the highway boundary, a 1.8 m close boarded fence to the eastern and northern boundaries and a 1.5 m fence to the southern boundary. There is an existing gated pedestrian access to the site from Shenton Lane to the western boundary.

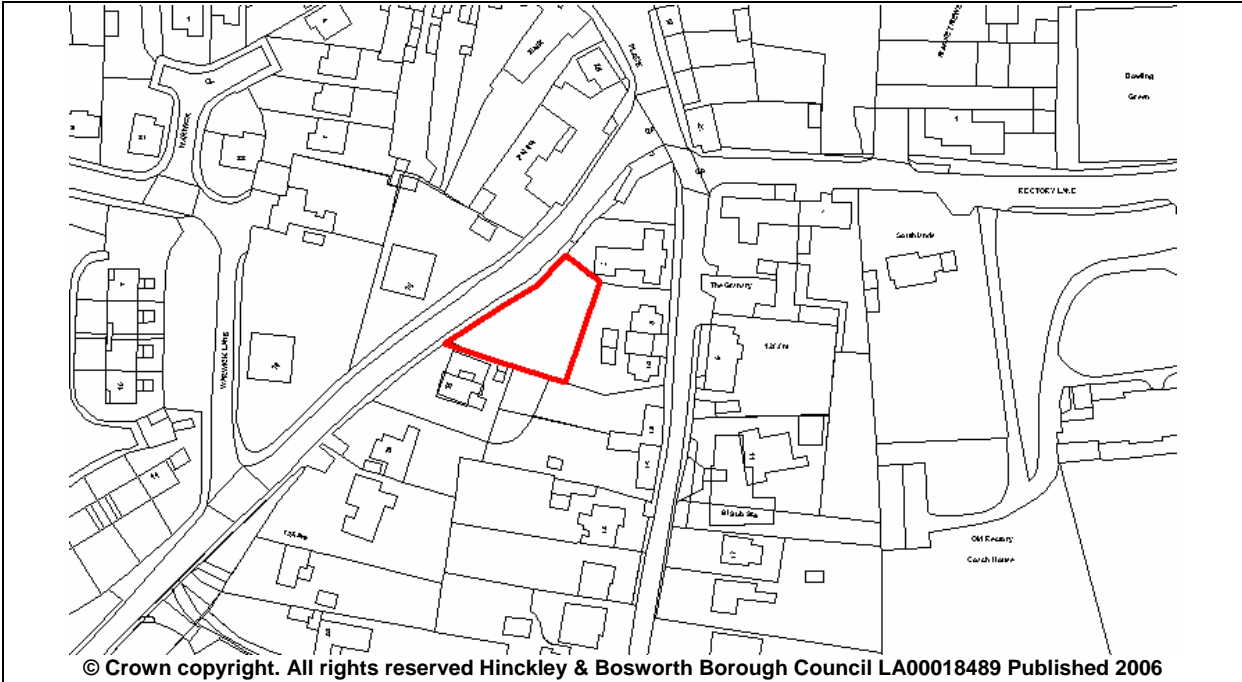
To the north of the site is a large detached bungalow constructed from red brick and dark tile and immediately to the south is a large detached two storey dwelling which is part brick and render and has been extended with a two-storey side extension in recent years.

Technical Documents submitted with application

The application is accompanied by a design and access statement that is supportive of the design stating that the dwelling was designed to fit in with the surrounding properties and the design features such as oak framing at first floor level is reminiscent of many existing cottages in the local area. In terms of highway safety it is stated that the proposed vehicle access position has been chosen to allow a passing place to be created along Shenton Lane and to improve visibility for motorists negotiating on-coming traffic along Shenton Lane.

History:-

06/01167/OUT	Erection of two dwellings and detached garage with associated parking and access	Withdrawn	
06/00298/FUL	Erection of two semi-detached dwellings	Application returned	
05/01013/OUT	Erection of dwelling	Refused	23.11.05
05/00573/FUL	Erection of one detached and one pair of semi-detached dwellings and detached garage	Withdrawn	



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Consultations:-

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

The Director of Environment and Transport (Highways) has objected to the proposed development on the grounds that the creation of the vehicle access will displace valuable on-street parking along Shenton Lane and the constant parking of vehicles along the highway will obstruct visibility for vehicles exiting the application site to a dangerous level.

Market Bosworth Parish Council have objected to the proposed development and raised the following issues:-

- a) archaeology work should be undertaken
- b) a vehicular access to Rainbow Cottage in the same street was refused
- c) overdevelopment
- d) impact on land stability and drainage
- e) loss of light to 6-10 Sutton Lane from the garage
- f) garage should be re-sited
- g) garage should be reduced in height
- h) impact on trees on neighbouring plots
- i) insufficient space for construction vehicles
- j) overbearing impact on 6-10 Sutton Lane.

A Site notice and Press notice were displayed and neighbours notified. Four letters of objection have been received to the original proposals raising the following issues:-

- a) overdevelopment of the site
- b) a three storey dwelling is out of keeping with the character of the area
- c) overbearing impact on 6-10 Sutton Lane, exacerbated by the difference in ground levels
- d) bedroom windows will overlook the windows of 6-10 Sutton Lane
- e) loss of light to the gardens of 8 and 10 Sutton Lane
- f) the excavation required for constructing the basement will impact on drainage
- g) the proposed garage is sited too close to the rear boundary and should be re-sited
- h) the ridge height of the garage is too high
- i) the size of the garage is too large
- j) construction would result in damage to trees in the rear garden of 8 Sutton Lane
- k) impact of development upon the conservation area
- l) questions raised about how construction vehicles will access the site
- m) the proposed dwelling is sited too close to 15 Shenton Lane and should be re-sited
- n) overlooking to the rear garden of 15 Shenton Lane
- o) impact of excavation upon the foundations of 15 Shenton Lane
- p) the dwelling will be 2m higher in its ridge height than 6-10 Sutton Lane
- q) the ridge height of the garage will be level with the ridge of 6 Sutton Lane
- r) the removal of the Silver Birch tree will remove existing screening
- s) loss of parking spaces on Shenton Lane
- t) overlooking to the bedroom and bathroom of 10 Sutton Lane
- u) impact on view
- v) Visibility splays on Shenton Lane of 33 m cannot be achieved, therefore the development doesn't comply with highway guidance.

Following receipt of the amended plans three further letters of objection were received which raised similar issues to those previously stated.

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

Head of Community Services (Land Drainage)
Market Bosworth Society
Borough Council's Arboriculturalist
Ward Members.

The consultation period remains open at the time of writing and closes on 17 May 2011. Any further consultation response received before the closing date will be reported and appraised as a late item.

Policy:-

Central Government Guidance

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

Planning Policy Statement 3 (PPS3): 'Housing' sets out the national planning policy framework for delivering the Government's housing objectives.

Paragraph 12 states 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 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 Statement 5 (PPS5): 'Planning for the Historic Environment' sets out the national planning policy framework on the conservation of the historic environment. Paragraph HE7.1 states that the Local Planning Authorities should seek to identify and assess the particular significance of any element of the historic environment that may be affected by the relevant proposal.

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

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

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

Regional Policy

The decision of the Secretary of State for Communities and Local Government ("SoS") on 6 July 2010 to revoke Regional Strategies using powers in section 79 of The Local Democracy, Economic Development and Construction Act 2009 was successfully challenged in the High Court and was quashed in a judgment handed down on 10 November 2010. Following the decision, the SoS has written to local planning authorities stating that the government will introduce the Localism Bill in November containing proposals to abolish Regional Strategies. The Government's Chief Planning Officer has also written advising that local planning authorities should still have regard to the SoS's letter of 27 May 2010 and that it should still be regarded as a material consideration. Judgement was recently given 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 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 11: 'Key Rural Centres Stand Alone' requires new development to respect the character and appearance of the Market Bosworth Conservation Area by incorporating locally distinctive features of the conservation area into the development.

Policy 24: 'Sustainable Design and Technology' expects residential developments in Key Rural Centres to meet sustainability targets set out in Building a Greener Future.

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 REC3: 'New Residential Development - Outdoor Play Space for Children' requires the appropriate level of children's play space to be provided within development sites. Alternatively, a financial contribution can be negotiated towards the provision and maintenance of new recreation facilities within the vicinity of the site or towards the improvement of existing facilities within the area.

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 NE14: 'Protection of Surface Waters and Groundwater Quality' protects the water environment, potential sources of air and soil pollution.

Supplementary Planning Guidance/Documents

The Market Bosworth Conservation Area Appraisal 2007 provides an appraisal of the historic character and appearance of the urban environment within the Market Bosworth Conservation Area. It specifically states that Shenton Lane is characterised by large 2 storey residential properties in large gardens set behind mature hedges or occasional low stone walls which emphasise the semi-rural qualities of the area. The Management Plan and Photographic Survey associated with this document specifically identifies the frontage of the application site as requiring the paving slabs to be removed and replaced with a more traditional building material.

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.

Appraisal:-

The main considerations in the determination of this application are the principle of development, impact on the character and appearance of the Conservation Area, layout and design; residential amenity; highway issues; and other matters.

Principle of development

The site is within the settlement boundary of Market Bosworth therefore Local Plan Policy RES5 states that residential development is acceptable subject to siting, design, layout and providing it is in accordance with other plan policies. However, Planning Policy Statement 3 (PPS3) has recently been revised to remove residential gardens and curtilage from the definition of brownfield land. Ministerial advice provides clarification on this change, stating that this is to primarily prevent overdevelopment within residential areas that is out of character.

The character of the area is defined by large detached dwellings set within large plots with road frontages. The proposed site comprises part of the former garden to the properties on Sutton Lane and thus is considered Greenfield development. However the site has frontage onto the highway, it is located within the settlement boundary and the siting, design and layout of the scheme are considered acceptable. For these reasons the proposed development is considered acceptable in principle.

Impact on the character and appearance of the Conservation Area, Layout and Design

The scale, massing and bulk of the dwelling is modest with a ridge height of 7.1 m, a footprint of 66 square metres and it is set in from the southern boundary. The ridge height of the proposed dwelling is set 1.5m lower than the ridge of 15 Shenton Lane and 2 m higher than 3 Shenton Lane, thereby providing a stepped appearance to the ridge heights between these adjacent properties. The dwelling is set back from the highway by 4 m thereby reflecting the siting of dwellings on adjacent plots as 3 Shenton Lane is set back 4m and 15 Shenton Lane is set back 6.5 m. The two storey element of the dwelling is set in from the southern boundary with 15 Shenton Lane by 6.2 m. The proposed dwelling is sited approximately 15 m from the northern boundary with 3 Shenton Lane. By virtue of its scale and siting the proposed dwelling is considered to be in keeping with the existing pattern of development along Shenton Lane which is characterised by dwellings set back from the highway and the boundaries within large plots.

Although the dwelling has been set back from Shenton Lane, an enclosed rear garden in excess of 100 square metres is proposed. There is also sufficient space within the plot to site a detached double garage and space for the parking of two vehicles with a turning area. By setting the dwelling back from the highway it allows for a front garden to be provided which is reflective of adjacent properties. Therefore the proposed dwelling is not considered to constitute overdevelopment of the site and provides sufficient private amenity space in accordance with the SPG on New Residential Development.

The front elevation of the dwelling has a balanced appearance with a small dormer window set either side of the pitched oak framed porch. The oak frame detailing to the upper floor and windows provides visual interest to the design of the dwelling and reflects the brick and oak detailing to a number of dwellings located within the Market Bosworth Conservation

Area. This detailing is continued along the side and rear elevations of the proposed dwelling. The amended plan received on 3 May 2011 shows the removal of timber cladding from both the garage and utility projection which will improve the visual appearance of the development within the street scene. The reduction in the height of the garage by 1m also serves to result in this structure appearing subservient to the main dwelling within the street scene.

By virtue of its design, scale, massing, use of materials and detailing the proposed development, including the amendments to the detached garage is considered to be in keeping with the character and appearance of the conservation area. Furthermore the dwelling proposed includes a basement but appears as a two-storey dwelling within the conservation area. Therefore a two storey dwelling within the conservation area is not considered to constitute an incongruous feature.

Residential Amenity

The SPG on New Residential Development states where a habitable room on a dwelling faces a similar window on a neighbouring dwelling the Local Planning Authority will negotiate to achieve the distance between them to be a minimum of 25 metres. The separation distance between the bedroom window (bedroom 4) and the bedroom windows to 6-10 Sutton Lane to the rear varies between 20.5 m and 22 m. However due to its orientation, the bedroom window to the proposed dwelling (bedroom 4) will face a south easterly direction and not directly towards the rear elevations of 6-10 Sutton Lane. Therefore the potential for overlooking between habitable room windows will be significantly reduced. If the dwelling had to be re-sited further forward to allow this 25 m separation distance to be achieved then this would result in the dwelling becoming out of keeping with the siting of adjacent properties, to the detriment of the street scene and conservation area.

At a minimum separation distance of 20 m to the properties on Sutton Lane to the rear the proposed development is not considered to result in loss of light or having an overbearing impact to the gardens and ground floor windows of these properties. Furthermore there are existing garages located to the rear of each of these three properties on Sutton Lane which already result in some overshadowing to the respective gardens and ground floor windows. Taking into account the difference in ground levels the ridge height of the proposed dwelling will be 1m higher than the ridge heights 6-10 Sutton Lane. However this is not considered to be detrimental to the residential amenity of these properties or to the character and appearance of these properties within the conservation area.

The proposed garage in its amended form has been reduced by 1m so that its ridge is 2.3 m below the ridge height of the proposed dwelling. The garage will also be 1.3 m below the ridge height of 6 Sutton Lane. The garage has also been re-sited 1.5 m away from the rear boundary, thereby resulting in it being located closer to the proposed dwelling. Therefore the amendments made to the appearance, scale and height of the detached garage are considered to be appropriate and not result in demonstrable loss of amenity to neighbouring properties.

There are no windows proposed in the western elevations at upper floor level that would result in overlooking to the rear garden of 15 Shenton Lane. At its nearest point the proposed dwelling will be sited 1.5 m from the boundary with 15 Shenton Lane. At its nearest point 15 Shenton Lane, in its extended form is located 1m from the same boundary. Therefore this distance from the boundary to the proposed dwelling is similar to that of 15 Shenton Lane.

Highway Issues

As stated in the consultation response section of this report the Director of Environment and Transport (highways) has objected to the proposed development. The issues raised by

objectors in relation to highway safety and visibility has been accounted for in the highways objection. The proposed development will displace on-street parking to form the access onto Shenton Lane and parked vehicles will severely impair visibility when exiting the application site having an impact upon highway safety.

In terms of construction vehicles accessing the site this would occur as a result of providing a vehicular access into the site that could accommodate delivery, service and construction traffic. It would be the responsibility of the site manager to ensure that local roads would not become congested with construction traffic.

Other Matters

Excavation

The proposals involve the creation of substantial basement accommodation. No comments have been received from the Head of Community Services (Land Drainage) in respect of the potential impact of development upon local drainage. The construction of a basement would be dealt with under the Building Regulations protocol and would be stringently assessed at regular intervals to ensure that development meets the relevant building codes. The impact of excavation upon the foundations of adjacent properties would be dealt with under the legislation contained within the Party Wall Act.

Removal of Trees

The proposal involves the removal of a Silver Birch tree from the northern boundary of the site and a Horse Chestnut tree located in the centre of the site. These trees are not of a mature nature and provide little amenity value to the site. Therefore the removal of these two trees is considered reasonable in this case. No comments have been received from the Council's Arboricultural Consultant in relation to the removal of this tree. It is conceded that the removal of this tree will reduce some screening to the northern part of the site. The garage in its amended position has been re-sited 1.5 m from the eastern boundary, thereby meaning that the impact of construction upon the apple tree in the rear garden of 8 Sutton Lane is considered negligible.

Loss of View

A letter of objection has been received from a neighbouring property raising concerns that the proposal will result in a loss of view. Regardless of whether or not this will be the case, loss of a view is not a material planning consideration and therefore will not be taken into consideration during the decision making process.

Developer Contributions

The general approach to developer contributions must be considered alongside the guidance contained within Circular 05/05 and more recently in the Community Infrastructure Levy Regulations 2010 (CIL). CIL confirms that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed. In such cases, and where the development is needed to meet the aims of the development plan, it is for the local authority and other public sector agencies to decide what is to be the balance of contributions made by developers and by the public sector infrastructure providers in its area supported.

The site is located within 300 m of Northumberland Avenue and Parish Field Amenity Green Spaces and therefore the proposal triggers a requirement for a contribution towards the

provision and maintenance of play and open space in accordance with Policy REC3 supported by the Play and Open Space SPD.

Within the Green Space Strategy 2005-2010, Market Bosworth was found to have adequate provision for amenity green spaces to meet the needs of residents. The quality of the space was considered within the Quality and Accessibility Audit of 2005 which awarded a score of 42.9% to Northumberland Avenue and 52.2% to Parish Field. The document makes recommendations to what works are required to improve the quality and provides a cost. With regard to Amenity Green Space a cost estimate is put forward for protecting and improving the quality of existing amenity green space. Given the low quality score it is considered a contribution is justified in this instance.

The Play and Open Space SPD sets out how the contribution is worked out in proportion to the size and scale of the development. In this instance a contribution of £1,250.80 is required with £817.80 towards the provision of equipment and facilities, and £433.00 towards maintenance on a 10 year period.

There is no commitment submitted with the application that such a contribution will be offered and as such the proposal is contrary to the requirements of Policies IMP1 and REC3 of the Adopted Local Plan and the SPG on Play and Open Space.

Conclusion

The proposed development is considered acceptable in principle subject to meeting other policy criteria. The design, layout, scale and mass is considered to be reflective of the Conservation Area and would not adversely impact upon neighbouring amenity. However, by virtue of the siting of the proposed vehicular access the proposed development would displace important on-street parking on Shenton Lane and the presence of vehicles being continually parked outside the application site would severely reduce visibility for vehicles exiting the site to a dangerous level. Accordingly the proposed development is detrimental to highway safety and not in accordance with policy T5 of the adopted Local Plan.

RECOMMENDATION:- REFUSE, for the following reasons:-

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

Reasons:-

- 1 The applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development and the proposal, if permitted would consequently result in an unacceptable form of development and could result in dangers to road users. Accordingly the proposed development is considered contrary to policy T5 of the adopted Hinckley and Bosworth Local Plan 2001.
- 2 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:- Scott Jackson Ext 5929

Item: 05
Reference: 11/00260/COU
Applicant: Mr David Johnson
Location: Dennis House 4 Hawley Road Hinckley
Proposal: CHANGE OF USE FROM STORAGE TO LEISURE
Target Date: 27 May 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation as it is a new development for a recreation and leisure use.

Application Proposal

This application seeks planning permission for a change of use from an existing B2/B8 use to a D2 leisure use, allowing Kuk Sool Won - Martial Arts Centre to be formed. The studio is situated on the first floor, within the rear left corner of Dennis House and comprises an area of 240 square metres. The area is currently sub-divided by demountable partition walls into smaller storage units.

No external works are planned aside from general maintenance and repair, however the internal space is to be modernised to cater for the proposed use. The existing vehicular and pedestrian accesses from Hawley Road, and the parking area to the rear of the site are to be used.

The proposed opening hours are between:- 5.00 pm to 9.30 pm Monday to Friday and between 10.00 am to 3.00 pm on Saturdays and once a month on a Sunday between 7.00 am and 5.00 pm.

The Site and Surrounding Area

The site is located to the south of Hinckley Town Centre and is currently accessed off Hawley Road and Station Road. The site lies within an area that consists of industrial/commercial and residential uses. Immediately to the north of the site is a sheltered housing development known as Royal Court. The southern boundary of the site is formed by Hawley Road and to the west there is a factory unit. In the wider area the railway station is located to the south east of the site and directly south on Hawley Road there are retail uses and vacant land.

Dennis House comprises an early 20th Century brick building, three storeys in height with a cream painted front façade and a pitched roof. There are a number of later single storey extensions that are not in keeping with the original building. There is a large parking and loading area to the rear north western corner of the site and an electricity substation to the south-western corner of the site. The site has a gradual incline from the southern boundary to the northern boundary. The surrounding area rises to the east and slightly to the west.

Technical Documents submitted with the application

The application is submitted with a Design and Access Statement which describes the site and surrounding area and states that the proposal will bring a vacant unit back into economic use and will provide accommodation for an existing viable business. It goes on that there will be limited noise generated from the use and that no plant or machinery is required and no loud music or excessive shouting will be generated from the proposed end use.

Since submission further information has been submitted by the applicant stating that currently the space is subdivided into a number of smaller storage rooms, only a few of which are being used. The space has been marketed as a storage facility, but has received little interest. If the application is successful the rooms currently being used will be relocated to another part of the building under the storage remit.

The existing car parking area is un-marked, but could provide at least 22 spaces. The car park is to be shared with the users of the Ground Floor beneath the application area, whose working hours are typically 9-5.30 pm Mon to Fri (as advertised). Based upon the opening hours of the proposed studio there will be limited times where a combined use of the car park will occur. The proposed studio will have limited car users, as many students walk or cycle; therefore, the capacity offered will comfortably cater for the dual load.

The development granted under application 10/00465/EXT has not been implemented due to the current economic circumstances.

History:-

10/00465/EXT	Extension of time for extant Planning Permission	Approved	12.10.10
07/00742/OUT	Demolition of existing building and construction of new Buildings accommodating 651 Sq. M of A2 and B1 use Employment space and 56 one and two bedroom warden Controlled sheltered flats with associated facilities and parking	Approved	20.12.07
07/01155/FUL	Conversion of Dennis House Including New Build Extensions to create 42 Self Contained Flats Within a Sheltered Housing Complex and Refurbishment of Employment Space (Revised Scheme)	Refused	20.12.07
07/00742/OUT	Demolition of Existing Building and Construction of New Buildings Accommodating 651 square metres of Class A2 and Class B1 Use Employment Space and 56 One and Two bedroom Warden Controlled Sheltered Flats with Associated Facilities and Parking	Approved	25.09.07

Policy:-

National Planning Guidance

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

Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS4) provides national guidance on economic development including development within public and community uses and town centre uses which provide employment opportunities and generate wealth. This PPS seeks to deliver more sustainable patterns of economic development that reduce the need to travel, respond to climate change and promote the vitality and viability of town centres.

Planning Policy Guidance Note 13: Transport (PPG13) seeks to integrate planning and transportation at all levels and to promote sustainable transport choices for both people and freight.

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 recently given 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

The East Midlands Regional Plan provides a broad development strategy for the east Midlands. The following policies apply to this proposal:

Policy 1 outlines the regional core objectives, including to protect and enhance the environment and improve employment opportunities.

Policy 2 promotes better design, including seeking design that reduces CO2 emissions.

Policy 20 lists the regional priorities for employment land.

Local Development Framework Core Strategy 2009

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

Hinckley and Bosworth Local Plan 2001

The application site lies within the settlement boundary for Hinckley and is designated as an employment site in the adopted Hinckley and Bosworth Local Plan as part of the Hawley Road Industrial Estate. This industrial estate is allocated as an EMP1 (b) - Existing Employment Site, which indicates that the area is generally considered to be an acceptable employment location but where proposals for alternative uses would be considered on their merits.

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

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

Supplementary Planning Guidance/Documents

The Town Centre Area Action Plan (Proposed Submission Document) (June 2010) includes the site within the Hinckley Town Centre Area Action Plan boundary and close to, but outside of, one of the nine strategic development areas.

Other Documents

The Borough Council have commissioned an updated Employment Land and Premises Study Review (May 2010) into the supply and demand of employment uses. The study identifies this site as being part of the Hawley Road Industrial Estate, which is within the Hinckley Town Centre Area Action Plan boundary and where there is potential for mixed-use development. The recommendation of the study is that the site should remain as an EMP1(b) site with 25% of the total site being retained for employment use and other uses being allowed on 75% of the total site.

Appraisal:-

The change of use proposed relates to only part of the application building and thus the scheme approved under application 10/00465/EXT could not be implemented alongside this application if approved.

The main considerations with regards to this application are the principle of development; impacts on the amenity of surrounding residential properties and highway considerations.

Principle of Development

Planning Policy Statement 4 encourages employment development within town centres to generate wealth and promote vitality and viability, which is also reflected within Core Strategy and Local Plan Policy. Although the use proposed does not strictly conform to this, as the development is for a proposed leisure use, by virtue of the Employment Land and Premises Study the principle of the development is considered acceptable. This recommends that the site in question should provide 25% of employment uses, with the remaining 75% used for 'other uses'.

Residential Amenity

As the proposal is sited to the rear of Dennis House the residential properties most affected will be numbers 18 to 23 Royal Court. The Head of Community Services (Pollution) has requested a condition to ensure that windows are kept closed during classes. However in respect of this, as there is a distance of 23m and an access road between the closest property and the application site, and as the site already has an unrestricted B2 use, which could potentially generate round the clock noise, this condition is considered unreasonable. Further, due to the nature of the condition requested it would be very difficult to monitor, and thus is also considered un-enforceable. Accordingly on balance, the potential noise generated is considered far less than that which could be created at present, and thus would not warrant refusal of the scheme. In respect of the above, it is however considered justified to restrict the hours of operation from 5.00pm to 9.30 pm on weekdays and 9.00am and 5.00pm on Saturdays and Sundays to ensure that the use does not become a source of disturbance at unreasonable hours to residents of surrounding properties.

Due to the times of classes proposed there will be out of hours vehicle movements which could potentially cause disturbance to the nearby residential properties, however as the site is situated within a built up area and the proposal is small scale, any additional vehicle movements will have no material impacts on the amenity of surrounding residential properties.

Highways

The hours of the proposed use are roughly outside of the general working hours of the remaining occupants of the building (9 am – 5 pm) and thus the Director of Environment and Transport (Highways) has no objections to the proposal based on the assumption that there will be no overlap in use of the current parking spaces. However even if the units on site were occupied at the same time, due to the under occupancy of the building as a whole and the fact that the building is not to be extended, the existing provision is considered adequate.

The existing site access is to be used which is considered acceptable.

Other Issues

The applicant has stated that he intends to replace the existing external signage on the building to advertise the use proposed, however no details of this have been included within this application. Accordingly if the signage requires consent it will be considered within a separate application for Advertisement Consent.

Conclusion

Although the use proposed does not strictly conform with town centre uses normally encouraged, in that it will not provide an array of employment opportunities or have a retail element, the use complies with the general requirements for the site outlined within the Employment Land and Premises Study and thus in principle is considered acceptable. The scheme will also bring back into use a currently vacant unit and will provide an accessible, in-demand leisure facility. Further due to its distance from surrounding residential properties and considering the existing un-restricted use of the site, the use proposed is considered to have no additional material impacts in terms of noise and disturbance on surrounding properties. Accordingly, based on the above and subject to conditions the proposal is considered acceptable and in accordance with Policy 1 of the Core Strategy and Policies BE1 and T5 of the adopted Local Plan.

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 use proposed there are considered no material impacts in terms of residential amenity or on highway safety. Therefore the proposal is considered acceptable.

Hinckley and Bosworth Local Plan (2001):- Policy BE1, T5

Hinckley and Bosworth Local Development Framework Core Strategy (2009):- Policy 1

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:- Drg Nos:- 01, 02A received by the local Planning Authority on the 30 March 2011.
- 3 The Martial Arts Classes shall not be conducted outside the following times:- 5.30 pm to 9.30 pm Monday to Friday and 9:00am to 5.00pm on Saturday and Sunday.

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 proposed use does not become a source of annoyance to nearby residents and to ensure there is sufficient parking within the site for the use to accord with policy BE1 and T5 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Eleanor Shaw Ext 5680

Item: 06
Reference: 11/00153/COU
Applicant: Mrs Margaret Ashby
Location: Land At Markfield Lane Thornton
Proposal: CHANGE OF USE OF LAND FROM AGRICULTURAL LAND TO MIXED USE OF AGRICULTURAL AND EQUESTRIAN LAND AND ERECTION OF ASSOCIATED BUILDINGS
Target Date: 31 May 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as a request for referral to Planning Committee has been received from a Member of the Borough Council.

Application Proposal

This application is for the change of use of land from agricultural to a mixed agricultural/equestrian use, and for the erection of associated buildings. The application is part retrospective, as horses are already grazed on the land and there are existing field shelters. The application has arisen from enforcement investigations.

The existing buildings include four 2.54 metre x 2.45 metre mobile field shelters and two 3.6 metre x 3.6 metre mobile field shelters. Hard standing, a parking area and a roadway have also been installed.

In addition to the above four stables, a hay store and a tack room are also being applied for.

During the site inspection it was noted that there was a small touring caravan on site, however this has not been applied for as part of this application.

The Site and Surrounding Area

The site is situated towards the end of a private track road off Markfield Lane and comprises an agricultural field of 7.5 acres. The field is surrounded by open rolling countryside with the ground falling steeply to the south west. At its southern most point the site bounds Thornton Reservoir. To the north of the site are fields planted with National Forest Trees and to the north west of the site is an equestrian holding and associated built development. South east of the site is farmland. The site is surrounded by native hedgerow. A watercourse runs parallel to the south western boundary of the site.

Internally the site is subdivided by post and rail fencing. To the east of the fence is a hay field, and a hard surfaced track runs adjacent to the central fence. The largest area of hard surfacing, measuring 20 metres x 25 metres and two field shelters are situated centrally within the 'Hay' field and a smaller area of hardstanding and four field shelters are situated in the field adjacent to the track road.

Technical Documents submitted with the application

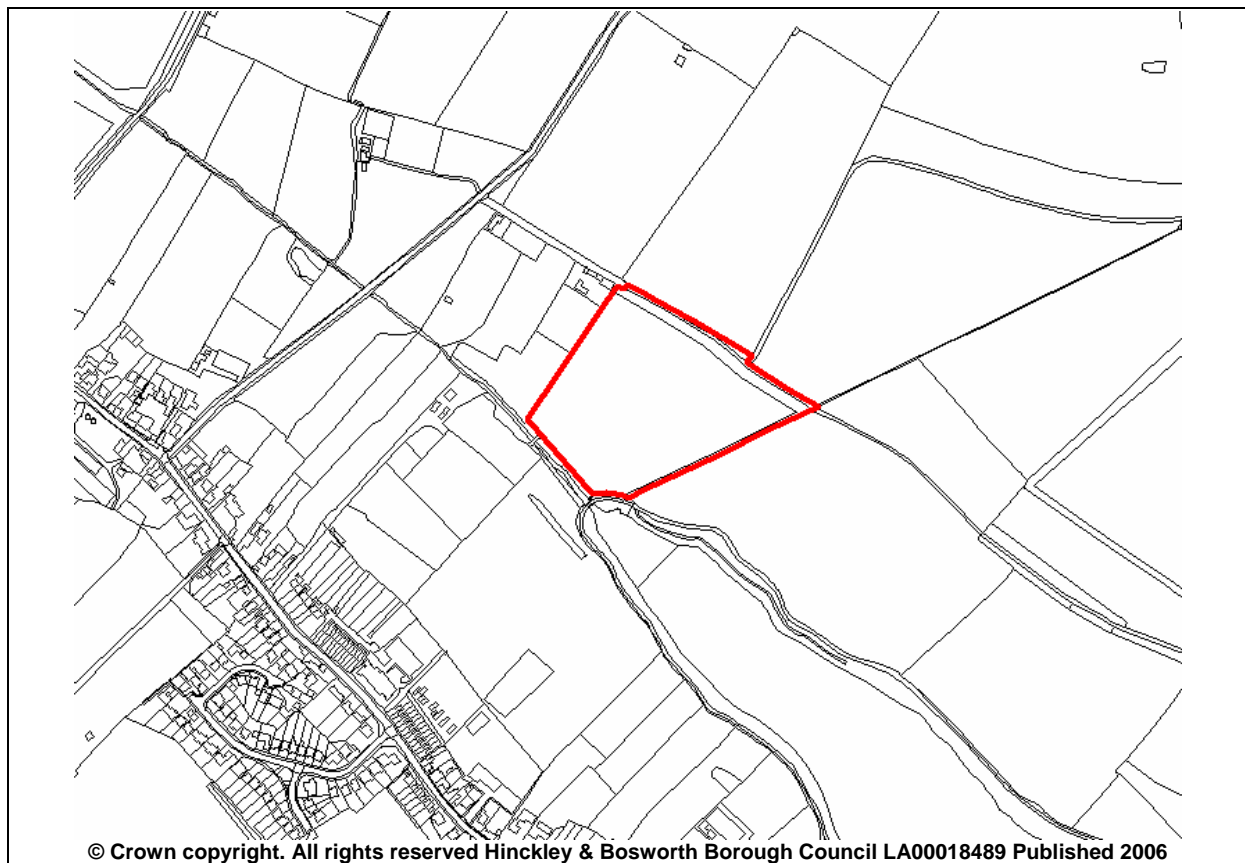
A Design and Access Statement has been submitted which provides a history of the development of the site and the proposed future development and justification for the solutions provided and the site design. Information is also included on the Eco friendly removal of manure from the site, the use of the caravan and the use of the access track. In addition it is mentioned that the applicant runs a charity for children with cancer which owns two of the ponies and that occasionally children registered with the charity visit and groom these ponies.

A Technical report has been submitted which provides information derived from the Code of Practice for the Welfare of Horses, Ponies, Donkeys and their Hybrids, Section 9 (2) (a) of the Environment Act. This includes information on suitable forms of shelter, pasture management and exercise.

Three plans have been provided illustrating the existing and proposed development, landscaping and new tree planting and the position of water courses.

History:-

11/00019/UNBLD Enforcement Enquiry



Consultations:-

No objections received from:-

The Environment Agency
Severn Trent Water
The Head of Community Services (Pollution).

No objection subject to a Note to Applicant has been received from the Head of Community Services (Drainage).

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

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

The Ramblers Association
Bagworth and Thornton Parish Council
Site Notice.

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 rural development by protecting and enhancing the natural environment and the quality and the character of the countryside.

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 32 relates to equine activities, recognising that horse riding and other equestrian activities are popular forms of recreation within the countryside that can fit in well with farming activities and can help diversify rural economies.

Regional Policy - East Midlands Regional Plan 2009

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 recently given 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.

Local Development Framework Core Strategy 2009

Policy 7: Key Rural Centres

Policy 10: Key Rural Centres within the National Forest supports proposals which contribute to the delivery of the National Forest Strategy and create a new sense of place.

Policy 20: Green Infrastructure seeks to improve access around Thornton Reservoir and provide additional multi-user access routes in conjunction with any recreational /tourism development.

Policy 21:- National Forest seeks to ensure the siting and scale of the proposed development is appropriately related to its setting, the development respects the character and appearance of the wider countryside and that the development does not adversely affect the existing facilities and working landscape of either the Forest or wider countryside.

Hinckley and Bosworth Local Plan 2001

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

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

Policy NE21 states that permission will only be granted for built development in the National Forest where development is of a high quality. The design and materials of construction of buildings and the layout and planting of open space between them should reflect the local architecture and the setting of the proposal in the forest.

Policy T5 'Highway Design and Vehicle Parking Standards' refers to the application of appropriate standards for highway design and parking provision for new developments. Leicestershire County Councils document 'Highways, Transportation and Development' provides further highway design guidance.

Appraisal:-

The main considerations in the determination of this application are the principle of development, siting and design, impact on the character of the countryside and National Forest, highways and other considerations. No weight can be given to the fact that elements of this application are retrospective.

Principle of Development

Whilst central government guidance, contained within Planning Policy Statement 7 and Policy NE5 of the adopted Local Plan seeks to protect the character and appearance of the countryside for its own sake and restrict new built development, it is recognised that certain forms of development, including those associated with equine activities, which are land based recreational activities, and require a countryside location are generally acceptable in principle.

Therefore in principle the change of use of the land to a mixed equestrian/agricultural use and the siting of the field shelters and associated hardstanding is considered to be acceptable and will be subject to the general design and siting requirements.

Impacts on the Countryside and National Forest

Originally the land in question would have comprised large fields of open rolling pasture land, enclosed by native hedging. As a result of the existing development which has taken place, the character of the land has changed through its subdivision into smaller paddocks, the creation of areas of hard standing and the siting of field shelters. However this said it is accepted that through the development of land for equestrian activities, some of the original rural character of the site will be eroded. In this case, although the areas of hardstanding are large, their surfacing is of a temporary nature which will become increasingly vegetated over time, and although there may be slight views of them from the reservoir to the south, due to the rolling nature of the land and the vegetation along the southern boundary, the hard surfacing will only be partially visible and will appear against the backdrop of the land. There is no planning control over the sub-division of fields. Accordingly impacts on the character of the countryside are not considered to warrant refusal of the scheme.

In respect of the field shelters and stables, these are of wooden construction and have green steel roofs. They vary in size with the largest being the hay store and single stable. This building has a footprint of 38 metres squared and a maximum height of 3.4 metres. The existing and proposed buildings are clustered around the existing areas of hard standing. Although they will be visible in the landscape, their materials and colouring will aid their assimilation, and due to the sites screening and the lay of the land, they will not be visually prominent from either Markfield Lane or Thornton Reservoir. Further, many of the fields in the surrounding area are used for equestrian activities, and thus the provision of field shelters and stables do not appear as alien structures within the wider setting and are not considered to have a detrimentally harmful impact on the character of the countryside or National Forest.

Policy 21 of the adopted Core Strategy requires landscaping proposals to accompany new developments. Due to the density of the hedgerow surrounding the site, and the low heights of the development in question, it is considered that the development will be effectively screened within the National Forest and that no further landscaping proposals are required as part of the proposed development.

In respect of the caravan, this is small and of a temporary nature. Accordingly this is considered to be ancillary to the activities conducted on land and will have minimal impacts on the character of the countryside. Therefore it is considered acceptable.

Siting and Design

The field shelters and stables have been grouped together in two clusters positioned centrally in the two paddocks nearest to the access track. This reduces further encroachment into the open undeveloped countryside and thus the siting of the buildings is considered

acceptable. In respect of the design of the buildings, they are of typical stable design, size and material and are of an appropriate scale for the size of the development and number of animals on site. Accordingly they will not appear out of place within the countryside and are considered acceptable.

Highways

The sites access and parking provision is existing and both are considered adequate for the development in question. The Director of Environment and Transport (Highways) has requested a condition restricting the site to personal use only, and as such it is considered necessary to impose this condition, as requested.

Other Issues

There has been some speculation that the site in question is currently being used to host 'Pony Parties'. The applicant has been questioned in respect of this and has confirmed that the only visitors to the site are her family members and occasionally children registered to the Cancer Charity who own two of the ponies on site. She has admitted to operating 'Pony Parties' off site and to hosting bi-annual BBQs and fundraising events , however such activities due to their temporary nature would not require planning permission.

Conclusion

In conclusion the change of use of the land to part equestrian and the siting of the associated buildings and hardstanding, is considered acceptable within this countryside location and by virtue of the siting, design, materials proposed and screening of the site, the proposed development is not considered to be harmful to the character and appearance of the open countryside, and will have no adverse impacts on highway safety. Accordingly the proposed development is considered to be in accordance with policies BE1, NE5, NE2, NE21 and T5 of the adopted Hinckley and Bosworth Local Plan and Planning Policy Statement 7.

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, siting and materials proposed, there are considered to be no material impacts on visual or residential amenity, on the character of the countryside or on highway safety. Accordingly the scheme is considered acceptable.

Hinckley and Bosworth Borough Council Local Plan (2001):- Policies BE1, NE5, T5, NE14, NE12, NE21

Hinckley and Bosworth Local Development Framework: Core Strategy (2009):- Policy 10, Policy 20, Policy 21

- 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:- Drg Refs:-

'Plan (o)' 'Plan (1)' 'Proposed Plan (2), Drg Nos:- 30, 30A, 40, 40A, 50, 50A, 2, 10, and 60 received by the Local Planning Authority on the 25 March 2011.

- 3 The development hereby permitted shall be carried out in complete accordance with the schedule of materials stated in the planning application form.
- 4 The development hereby permitted shall only be used for personal use and shall not be used in connection with a riding school/livery/riding school or any other business or commercial use.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the building is in keeping with its surroundings in the interests of visual amenity, in accordance with policy NE5 and policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 4 To ensure that the use of the site is not to the detriment of highway safety and the requirements of Policies NE5 and T5 of the Adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 Provision shall be made to ensure that animal waste and surface water contaminated by animal waste will not be discharged to ditches, watercourses or soakaways. Slurry, contaminated runoff - including wash water - and leachate from stockpiled manure, must be collected in tanks (or lagoons) complying with the standards laid down in the 'Control of Pollution (Silage, Slurry and Agricultural Fuel Oil) Regulations 1991'. Clean roof water should be discharged to soakaways (subject to suitable ground strata), ditches or watercourses.

Contact Officer:- Eleanor Shaw Ext 5680

Item: 07
Reference: 11/00281/FUL
Applicant: Mrs Alka Mistry
Location: 3 Lime Avenue Groby
Proposal: EXTENSIONS AND ALTERATIONS TO DWELLING (RETROSPECTIVE)
Target Date: 8 June 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the application is the result of an enforcement investigation and has raised local interest.

Application Proposal

This application seeks an amendment to application 11/00001/FUL which was approved under delegated powers on 4 March 2011. There was also an earlier application for the two storey extension to the north eastern side of the dwelling approved in 2008 under reference 08/00245/FUL which was amended by the application submitted earlier this year.

The proposal consists of an amendment to a previously approved two storey rear extension which will project by 0.9 metre from the original rear elevation and a single storey conservatory which will project a further 1.7 metres beyond the two storey proposal; both are sited 250 mm from the common boundary with the adjoining neighbour. The proposals also include an amendment to the previously approved two storey extension located along the north eastern boundary of the site providing an extension with a total depth of 8.51 metres which results in an additional 270mm projection to the rear that extends by 230 mm beyond the rear wall of the neighbours property together with an increased projection south westwards by 70mm.

The Site and Surrounding Area

The dwelling is a two storey semi detached property with a side driveway to the north eastern side with its boundary with No 1 Lime Avenue, and with front and rear gardens to the west and east respectively. The application dwelling is rendered at first floor and has a porch with a lean-to tiled roof to the front. The dwelling located to the north western side of the site (1 Lime Avenue) is detached but is located along the north western boundary of the application site. The adjoining dwelling (No 5) is located to the south eastern side of the site and is of a different design to the application dwelling.

The area is a predominantly residential, modern estate within the settlement boundary for Groby.

Works have commenced on site but because a complaint was received that the extensions were not being constructed in accordance with the approved plans, and following advice from officers works have currently ceased.

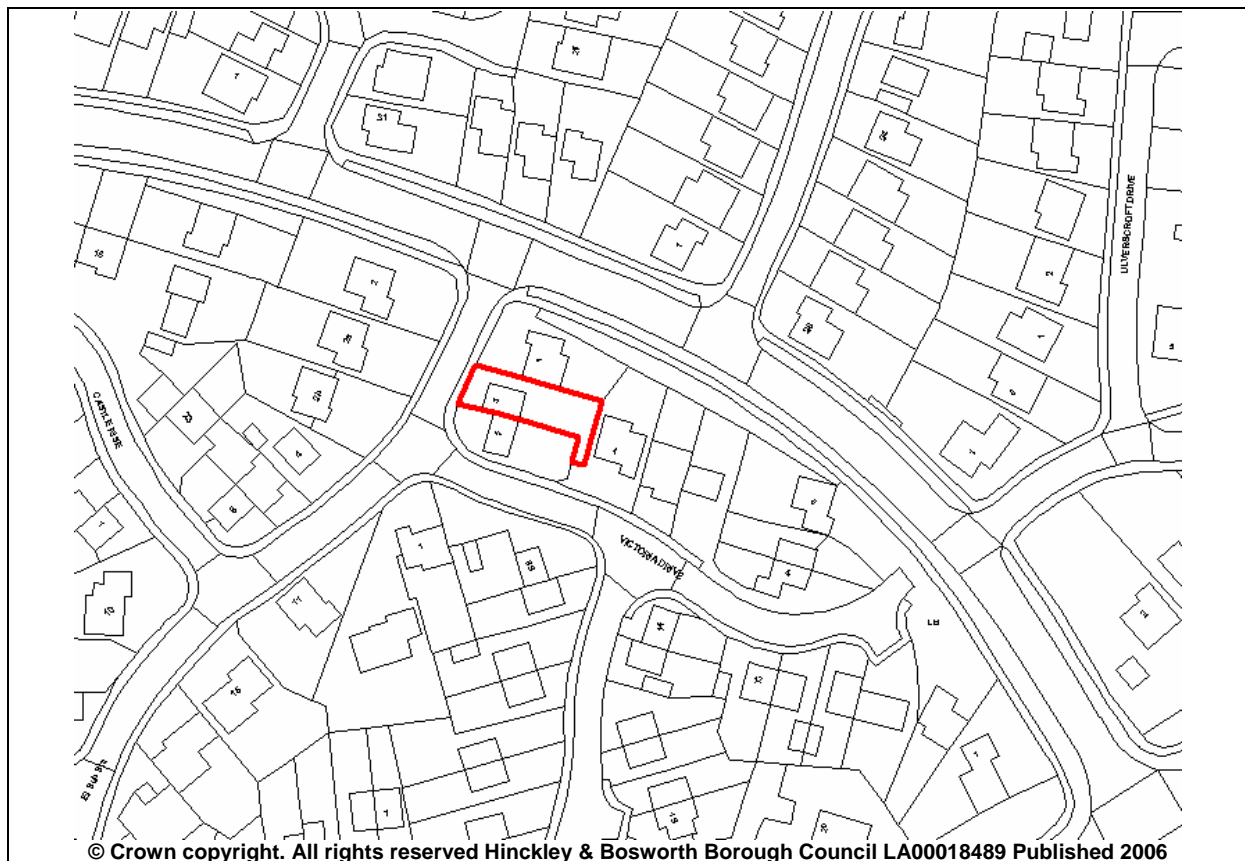
Technical Documents submitted with the application

None.

History:-

11/00001/FUL	Extensions and alterations to dwelling	Approved	04.03.11
08/00245/FUL	Extensions and alterations to dwelling	Approved	06.05.08

The current application is the result of a recent enforcement investigation. The applicant has stopped work on site until the current issue is resolved.



Consultations:-

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

- Ward Members
- Parish Council
- Neighbours.

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.

Local Development Framework Core Strategy 2009

There are no relevant policies within the Core Strategy.

Hinckley and Bosworth Local Plan 2001

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

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

Supplementary Planning Guidance/Documents

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

Appraisal:-

The main considerations with regard to this application are the principle of development, highway safety, design, impacts on the existing dwelling and the streetscene and neighbours amenity caused by the amendment to the approved scheme. No weight can be attached to the fact that this application is retrospective.

Principle

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

Two previous applications for similar extensions and alterations have previously been approved. The first (2008) application related to a two storey extension to the north eastern side of the site. The second application determined earlier this year dealt with an amendment to the 2008 proposal and a further two storey rear extension and single storey rear extension. In order to object to this current proposal it would be necessary to demonstrate that there is a significant change in policy or the details of the proposal that would justify such an objection on planning grounds.

Design, Impact on Character and Appearance of the existing dwelling and Streetscene

The proposed rear extension was approved within the previous 2011 application. This application proposes an extension that projects beyond the rear elevation of the neighbouring dwelling by 0.9 metre from the original rear elevation at two storey level and an additional 1.7 metres at ground floor level. It is in accordance the guidance contained within

the SPG on Household Extensions which states that rear extensions will not normally be permitted if they extend more than 2 metres along the common boundary with an adjoining dwelling in the case of two storey and 3 metres in the case of a single storey extension. This element has a gable to the rear elevation and the roof height is subordinate to the main dwelling. In terms of design, this element is considered to be acceptable.

The two storey extension located to the north eastern side of the site was approved in 2008, an amendment to that approved scheme was determined earlier this year. The previous 2011 application provided a wider extension to the 2008 approval which projected south westwards by an additional 1.1 metres. In terms of design and the Council SPG on Household Extensions, the proposal was considered acceptable. The current proposal is for a similar scheme but with an increased projection to the rear by 270 mm and projection south westwards by 70mm. The increase in projection is considered to be acceptable and is in accordance with the Council's SPG on Household Extensions.

In terms of impact upon the streetscene, the current proposal will have a similar impact when viewed from the front elevation as the schemes which were approved in 2008 and earlier this year. The property is not located on the corner but there is some view of the rear garden and proposed extensions from within Victoria Drive albeit behind the neighbour's garden and boundary treatment. When viewed from Victoria Drive, the current proposal will project an additional 270 mm to the rear of the site (generally eastwards) and 70mm south westwards than the previously approved scheme. In terms of the impact on the streetscene, the proposals are considered to be acceptable.

Neighbours amenity

The application approved in 2008 provided a two storey extension to the north western side of the application. The 2008 approved plans show that the two storey extension would not project beyond the rear of the neighbours dwelling (No 1). The alteration to the current scheme is an additional projection to the rear of 270 mm which results in a 230 mm projection beyond the rear elevation of the neighbours dwelling at No 1. Due to the orientation of the application site, generally to the south of the neighbours dwelling there will be some overshadowing to the neighbours site, however, because the projection proposed is so limited, the overshadowing is minimal and therefore, the proposal is considered to be acceptable. The increase in the south westerly projection of 70mm results in the proposal being set in from the boundary of the neighbour at No 5 by 3.6 metres, due to the orientation and set in from the boundary, the increase in projection is considered to be acceptable.

The two storey rear extension will project by 0.9 metre from the original rear elevation set off the common boundary with No 5 Lime Avenue by 250 mm; a single storey conservatory will project a further 1.7 metres (set off this common boundary by 250mm) beyond the two storey proposal. The previous application approved this extension along the common boundary. Due to the orientation of the two dwellings and taking into consideration the Council's adopted guidance, this proposal is still considered to provide an acceptable relationship with this neighbours property.

Highway Issues

For dwellings with four or more bedrooms, three car parking spaces should be provided. On the basis that no car parking spaces will be lost as a result of the proposed development the current parking provision is considered acceptable. The proposal has not altered in this respect from the schemes previously approved.

Conclusion

Two previous schemes have been approved for extensions and alterations to this property. This proposal differs from the previous approved scheme in that the two storey element to the north western side of the site projects an additional 270 mm to the rear and 70 mm to the south west beyond that previously approved and the two storey and single storey rear extensions are set in from the south eastern boundary with the neighbour by 250mm. In terms of design, impacts on the existing dwelling and the streetscene, neighbours amenity and highway safety, the proposals are considered to be acceptable and in accordance with the Council's SPG on Household Extensions. The minor change proposed is not considered to change the previous assessments of the scheme and provide any justification for objection.

RECOMMENDATION:- Permit subject to the following conditions:-

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

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development by virtue of the scale, mass and design of the proposed extension would not detrimentally impact on the amenities of neighbouring residents or the character and appearance of the street scene and would be in accordance with the development plan.

Hinckley and Bosworth Borough Council Local Plan (2001):- Policies BE1 and T5

- 1 The materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials of the existing dwelling unless previously agreed in writing with the Local Planning Authority.
- 2 The development hereby permitted shall be carried out in complete accordance with the submitted application details, as follows: Block Plan and Drawings 2734/02A, 2734/06A and 2734/10A received on 11 May 2011. Drawings 2734/03A and 2734/05A received on 13 May 2011.

Reasons:-

- 1 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 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).
- 5 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.

Contact Officer:- Louise Forman Ext 5682

Item: 08

Reference: 11/00004/FUL

Applicant: Mr M Ketcher

Location: White Gate Farm Mythe Lane Witherley

Proposal: CHANGE OF USE FROM AGRICULTURAL BARN TO HOLIDAY COTTAGES INCLUDING EXTENSION AND ALTERATIONS

Target Date: 14 June 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is an application for a new dwelling in a rural area resulting from the conversion of redundant buildings of architectural merit.

Application Proposal

Planning permission is sought for the change of use from an agricultural barn to a holiday cottage and single storey extension to create an additional holiday cottage.

For the avoidance of doubt, the change of use from an existing agricultural barn to holiday cottage has already commenced and is substantially built and as such permission is sought for its retention. An agricultural barn is also set to be demolished, but this does not require formal consent and as such does not fall part of the determination of this application.

The alterations will provide two self contained holiday cottages which are intended to be run and maintained in house by the site's owners. The first cottage, which has commenced, incorporates an entrance hall, living room, kitchen/dining room, two bedrooms and an en-suite/bathroom. The proposed extension would create an additional holiday cottage comprised of an entrance hall, living room, kitchen and one bedroom with an en-suite.

The proposed materials for the second holiday cottage are intended to match those used within the first holiday cottages and the existing dwelling on the site.

Following concerns raised by officers amended plans have been received showing a reduction in the ridge height of the proposed extension and alterations to the window and door sizes and details. Re-consultation has been undertaken. In addition a plan depicting

the number and size of the car parking spaces has been received and re-consultation has been undertaken with the Director of Environment and Transport (Highways).

The Site and Surrounding Area

The site is set back from the road by a field and comprises of the existing farmhouse, an agricultural barn set to be demolished and a modern agricultural building located to the north of the site. The first holiday cottage which seeks retention is located to the west of the main dwelling, with the proposed extension set to project from the west of it. The holiday cottages would be positioned forward of the main house with the existing agricultural barn set to be demolished being located to the rear of the holiday cottages.

The site is accessed by a track from the east of Mythe Lane and is set back from the road. The nearest neighbour is White Gate Cottage a detached dwelling located on the lane which shares the access track to the site.

The site is located outside the settlement boundary of Witherley, as defined by the adopted Hinckley and Bosworth Local Plan.

Technical Documents submitted with application

The application is accompanied by a Design and Access Statement, Business Plan and Structural Information.

The Design and Access Statement states that the extension will be modest and be constructed in materials common to the area and the rural environment. The Statement also considers that the scheme sits favourably with the government recommendations for employment in the open countryside and rural diversification.

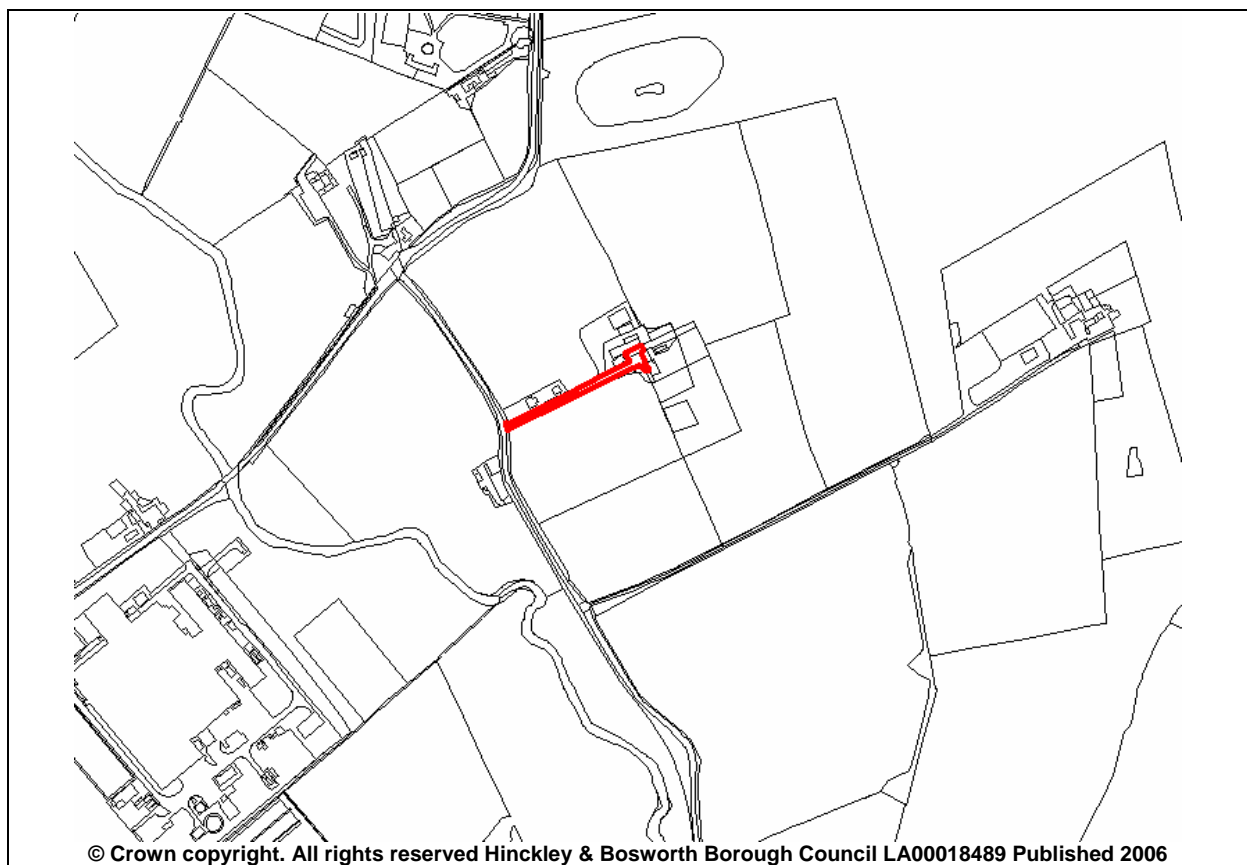
The Business Plan sets out the intentions of the business, its potential strengths and weaknesses, suppliers, prices etc and includes comparisons to other similar developments.

The Structural Information states that Block A (conversion already undertaken) is generally sound and capable of conversion to residential use, however the report for Block B (the barn set to be demolished) states that the structure of the building, particularly the roof, is not structurally adequate in its current form. As such in its current inadequate conditions recommends that the building should be demolished.

History:-

09/00288/UNAUTH	Unauthorised Breach of Control	Closed	27.10.09
08/00485/UNAUTH	Unauthorised Breach of Control	Closed	27.10.09
08/00460/UNBLD	Unauthorised Building Operation	Closed	27.20.09
09/00832/COU	Change of use from agricultural barn to holiday cottages	Application Returned	09.08.10
09/00830/COU	Proposed extension to create unit for dependant relative	Application Returned	09.08.10
09/00457/FUL	Extension and alterations to dwelling	Approved	18.08.09

09/00296/CLU	Certificate of lawful existing use for the occupation of the dwelling by persons not employed in agriculture	Refused	27.08.09
09/00202/FUL	Extension and alterations to remodel existing dwelling including a new brick outer skin	Refused	15.05.09
09/00043/FUL	Improvements to existing access and proposed new access and landscaping bund	Permitted	23.04.09
08/00995/FUL	Extension and alterations to remodel existing dwelling including a new brick outer skin	Refused	05.01.09
08/00719/GDO	Removal of two existing buildings and erection of a new building	GDO	20.08.08
08/00718/FUL	Formation of new access	Withdrawn	17.09.08



Consultations:-

No comments have been received from Environment Agency.

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

An objection has been received from Director of Environment and Transport (Highways).

No objection subject to conditions from:-

Directorate of Chief Executive, LCC (Ecology) states that this application will have no impact on any designated sites of ecological importance but that a watching brief must be maintained by the applicant and contractors for nesting birds and bats.

Head of Community Services (Land Drainage) states that as a new sewage treatment plant is proposed, the installation must conform to the requirements of the Environment Agency.

Site notice displayed and neighbours notified.

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

Witherley Parish Council
Severn Trent Water.

The consultation period remains open at the time of writing and closes on 25 May. 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' supports the conversion and re-use of appropriately located and suitably constructed existing buildings in the countryside for economic development. Policy EC7 supports the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres, carefully weighing the objective of providing adequate facilities or enhancing visitors' enjoyment or improving the financial viability of the facility with the need to protect landscapes and environmentally sensitive sites, and wherever possible, locate tourist and visitor facilities in existing or replacement buildings, particularly where they are located outside existing settlements.

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' states that development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness. More specifically to farming, PPS7 states that's Planning Authorities should be supportive of well-conceived farm diversification schemes for business purposes that contribute to sustainable development objectives and help to sustain the agricultural enterprise, and are consistent in their scale with their rural location. It also states that where relevant, Local Authorities should encourage the re-use or replacement of existing buildings where feasible and have regard to the amenity of any nearby residents or other rural businesses that may be adversely affected by new types of on-farm development

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 recently given 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

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

Policy 1 seeks to secure the delivery of sustainable development.

Local Development Framework Core Strategy 2009

Policy 12: 'Rural Villages' states that tourism development should be supported in line with Policy 23.

Policy 23: 'Tourism Development' supports the development of holiday accommodation in the Borough, where inter alia, the development can help to support existing local community services and facilities and is of a design and at a scale which is appropriate to minimise impact and assimilates well with the character of the surrounding area with acceptable landscaping.

Hinckley and Bosworth Local Plan 2001

Policy BE1: 'Design and Siting of Development' seeks to safeguard and enhance the existing environment and states that planning permission will be granted where the development: complements or enhances the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features; avoids the loss of open spaces, important gaps in development and features which contribute to the quality of the local environment; has regard to the safety and security of individuals and property; incorporates landscaping to a high standard where this would add to the quality of the design and siting; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; is not adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; does not adversely affect the occupiers of neighbouring properties.

Policy BE20: 'Re-use and adaptation of Rural Buildings' looks favourably on the conversion and reuse of existing rural buildings providing they satisfy the policies detailed requirements unless inter alia, the proposed use will have an adverse effect on the rural character, the building is structurally unsound; the reuse is detrimental to the character of the buildings and involves extensions that significantly alters the buildings appearance.

Policy NE5: 'Development in the Countryside' states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of

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

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

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance: Conversion of Rural Buildings (adopted 2004) recognises (paragraph 1.9) the important role the reuse and adaptation of existing rural buildings can have in providing facilities for commercial purposes and tourism, sport and recreation uses.

Other material policy guidance

Good Practice Guide: Planning for Tourism confirms that tourism, in all its forms, is of crucial importance to the economic, social and environmental well-being of the whole country, and the planning system has a vital role to play in terms of facilitating the development and improvement of tourism in appropriate locations.

Appraisal:-

The main considerations in the determination of this application relate to the principle of development, design and impact upon the rural character, impact on residential amenity, highway considerations and other issues. No weight can be given to the retrospective nature of elements of this application.

Principle of Development

This scheme has two distinct physical elements; the retention and use of the agricultural barn as a holiday cottage and the erection of an extension to create an additional building for use as a holiday cottage.

The site is situated in an area where the countryside is protected for its own sake as designated within the adopted Hinckley & Bosworth Local Plan. However, there is a consistent stream of advice within Planning Policy Statements that indicates that planning authorities should look favourably upon schemes of rural diversification, particularly those that involve the re-use of important and historic buildings, appropriately suited to the rural setting, sustainably located and bring benefits to the rural economy. The advice is also embedded within local planning policy, particularly so in Policy 23 of the Core Strategy, and Saved Policy BE20 of the Local Plan.

The scheme is considered appropriately suited to the rural setting, would strengthen the viability of the site which consequently could contribute to the rural economy. Subject to satisfying the policy controls as appraised below in this report, the wider benefits of finding a new appropriate use for existing agricultural buildings whilst also developing and benefiting the rural economy are consistent with national and local planning policy.

In summary it is considered that the scheme could bring some benefits to local economy and the wider tourism industry of the Borough. In these respects, the proposal is considered to

accord with the requirements of Saved Policy NE5 of the Local Plan and Policy 23 of the Core Strategy.

Siting and Design; Impact on the Rural Character

The siting of any new building in the countryside is important in view of the visual impact it can have on the landscape. Wherever possible new buildings should be located close to existing buildings or landscape features. The proposed extension is set to project westwards from the current agricultural building, and is set to be located within the cluster of the existing agricultural buildings. As such it is considered that the second holiday cottage is sited within a suitable location which would not encroach into the countryside.

In terms of wider visual impacts, the proposed holiday cottages are set to be located to the north west of the farm house and to the north of the access drive when travelling to the farmhouse, so that they would not be directly seen from the access drive. Mature hedging to the road frontages also assists in screening the development from Mythe Lane. Whilst the existing agricultural barns to the rear of the proposed siting of the cottages are set to be demolished, there is the presence of an existing landscaping bund on site approved under a previous planning application (ref: 09/00043/FUL) which offers screening to the north and west of the site. Given the presence of the existing two storey dwelling the two single storey cottages would not be visible from the east of the site.

Given the cottages would be set back from the main access drive, located some 120 metres from Mythe Lane and are screened from the highway by hedges, to the north and west by the landscaping bund and to the east by the existing dwelling, it is not considered that the cottages would be visually prominent within this countryside setting.

In terms of scale and design, following the submission of amended plans, the ridge height has been reduced by 0.3 metres to ensure that the proposed extension appears subservient to the existing barn. The alterations to the design, incorporating features more common to a traditional barn, ensures that the proposed building is in keeping with the character and appearance of this rural setting.

In summary, by virtue of the siting, scale, design and existing landscaping features on site, it is considered that the proposed cottages would assimilate into the countryside and are appropriate within this rural setting. The scheme does not give rise to any significant impact upon the visual appearance and amenity of the surrounding countryside. As such the scheme is considered to be in accordance with PPS7 and Saved Policies NE5, BE1 and BE20 of the Local Plan.

Impact Upon Residential Amenity

The residential dwelling most immediately impacted upon as a result of the proposal would be White Gate Cottage located to the west of the site.

Given the single storey nature of the proposals, the presence of the existing landscaping bund and a distance of approximately 80 metres between the neighbouring dwelling and the proposed holiday cottages, it is considered that the scheme would not give rise to any significant materials impacts.

In summary, the proposal is considered to have minimal impacts upon the amenity of neighbouring residents. As such the scheme is considered to be in accordance with Saved Policy BE1 of the Local Plan.

Highways Considerations

The position of the access drive on to Mythe Lane will remain unchanged. Following concerns raised by officers, an additional plan depicting the number and size of the car parking spaces has been received. The proposal provides two off street car parking spaces per each holiday unit and one disabled space.

The Director of Environment and Transport (Highways) has raised an objection to the scheme on the grounds that the proposal is remotely located from key services and public transport, is contrary to the key aims of government planning/transport policy set out in PPS1, PPS7 and PPG13 and the County Council's Local Transport Plan 3 all of which seek to reduce growth in the length and number of private car journeys whilst promoting walking, cycling and public transport use as viable alternatives.

Whilst it is acknowledged that the site is located within a rural location where the majority of journeys will be undertaken by car, it is considered that given the relatively minor number of units being provided for holiday accommodation on this site, that there would not be a significant increase in the level of vehicles on the road network as a result of the proposal. Witherley has limited services to support its population and it is hoped that development within the village will increase the viability and sustainability of the immediate area. Policy 12 of the adopted Core Strategy support tourism development in line with Policy 23, which states that development, can help to support existing local community services and facilities. In addition, this advice is echoed with guidance contained with PPS7. As such it is considered that the benefits that could arise as a result of the proposal would outweigh this reason for refusal.

Other Materials Considerations

Ecology

Directorate of Chief Executive, LCC (Ecology) has confirmed that this application will have no impact on any designated sites of ecological importance. Accordingly, it can be concluded that the proposal will not have any adverse impacts upon protected species; however a watching brief is suggested to ensure that there are no impacts upon nesting birds and bats.

Drainage

The application form states that surface water will be disposed of via a soakaway and the method of the disposal of foul sewage is un-known. The existing farm does contain livestock, however, the use of the buildings in question are for the purposes of holiday accommodation. Accordingly, in this case no drainage conditions are considered necessary.

Conclusion

In conclusion, the scheme will secure the re-use of an existing agricultural building which supports rural diversification whilst benefiting the rural economy. The site is well screened and the positioning and design of the cottages ensures that there are no significant impacts upon the appearance and amenity of the surrounding countryside. The scheme does not give rise to any significant impacts upon the occupiers of the neighbouring dwelling, highway safety or protected species. The proposal is compliant with planning policy at both national and local levels. Accordingly, it is therefore recommended that planning permission be granted, subject to the imposition of planning conditions.

RECOMMENDATION : - That subject to no significant material observations being received by the end of the consultation period expiring on the 25 May 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 results in high quality scheme that re-uses valued buildings, supports rural diversification and benefits the rural economy. This development is in accordance with the development plan and would not be to the detriment of any protected species, highway safety, residential amenity or the character and appearance of the countryside.

Hinckley and Bosworth Borough Council Local Plan (2001):- Policies BE1, BE20, NE5, T5, Conversion of Rural Buildings Supplementary Planning Guidance

Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (2009): - Policy 12 and Policy 23

- 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 complete accordance with the amended details: Site and Location Plan 198/28/105/D; Proposed Elevations 198/00/103H; Proposed Floor Plan 198/00/102H received by the Local Planning Authority on 9 May 2011.
- 3 No development shall commence until representative samples of the types and colours of materials to be used on the external elevation of the holiday cottage have been deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 No occupation of the holiday cottages hereby approved, shall be permitted until car parking provision has been implemented within the curtilage in accordance with the approved plans. The parking spaces so provided shall not be obstructed and shall thereafter permanently remain available for car parking, unless otherwise agreed in writing by the Local Planning Authority.
- 5 No development shall commence until such time as details of the surfacing materials to the car park have been submitted to and agreed in writing by the Local Planning Authority. The car park shall then be surfaced in accordance with approved details prior to the first use of the wedding venue and shall be maintained thereafter.
- 6 The accommodation hereby approved shall not be used for any purposes other than short term holiday accommodation and shall not be occupied for a continuous period exceeding 28 days at any one time.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.

- 3 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 and NE5 of the adopted Hinckley and Bosworth Local Plan.
- 4 To ensure that adequate off-street parking facilities are available to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 5 To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 6 The development accords with Policy 23 of the Adopted Hinckley and Bosworth Core Strategy, however as the development is located in the countryside where new dwellings are not normally permitted it is necessary to prevent its use as permanent residential accommodation as this would be contrary to the requirements of PPS3, and PPS7 and Policy NE5 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 Bats, nesting birds, great crested newts and certain other species are protected by law. A watching brief (maintained by the applicant and all workers on site) for all protected species should be maintained throughout the development. If any such species are discovered before or during the works, the works must be suspended and the local office of Natural England contacted for advice.

Contact Officer:- Ebony Mattley Ext 5691

Item: 09
Reference: 11/00296/FUL
Applicant: Market Bosworth Parish Hall
Location: Market Bosworth Parish Hall 25 Park Street Market Bosworth
Proposal: EXTENSIONS AND ALTERATIONS TO PARISH HALL
Target Date: 14 June 2011

Introduction:-

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

Application Proposal

This is a full application for the erection of a two storey extension to the front of the existing parish hall together with two single storey extensions to the eastern side of the main hall.

The proposed two storey extension will be built in front of the main hall to form a new entrance lobby, kitchen and eating area at ground floor together with meeting rooms and an office at first floor level. The two single storey extensions proposed to the eastern side of the main hall will provide additional entrance lobbies and toilets. The area to the front of the proposed café has been designed with folding doors to allow an external terrace to be utilised which will face onto Park Street to the south.

Members are advised that this application is read in conjunction with planning application 11/00297/CON for Conservation Area Consent to demolish the existing entrance lobby and toilets to the front of the parish hall.

The Site and Surrounding Area

The site is an existing parish hall located to the north east of the Market Bosworth Market Place, within the Conservation Area. The application site extends to 658 square metres, the majority of which is occupied by the parish hall building. The land at the rear of the building is used as a children's play area and the building is set back from the highway path by 5.3 metres. There is an existing vehicular access to the site in the south eastern corner together with a pedestrian access to the front. There is a 1m high hedge to the front boundary and a 1.8 metre close boarded fence and hedge along the western boundary.

There are two vehicular accesses that run either side of the parish hall which serve dwellings to the rear. The area to the front of the parish hall is laid to paving slabs and tarmac and has a disabled ramp leading up to the main entrance lobby. The area surrounding the site is residential in nature and there are listed buildings immediately to the east and opposite the parish hall.

Technical Documents submitted with application

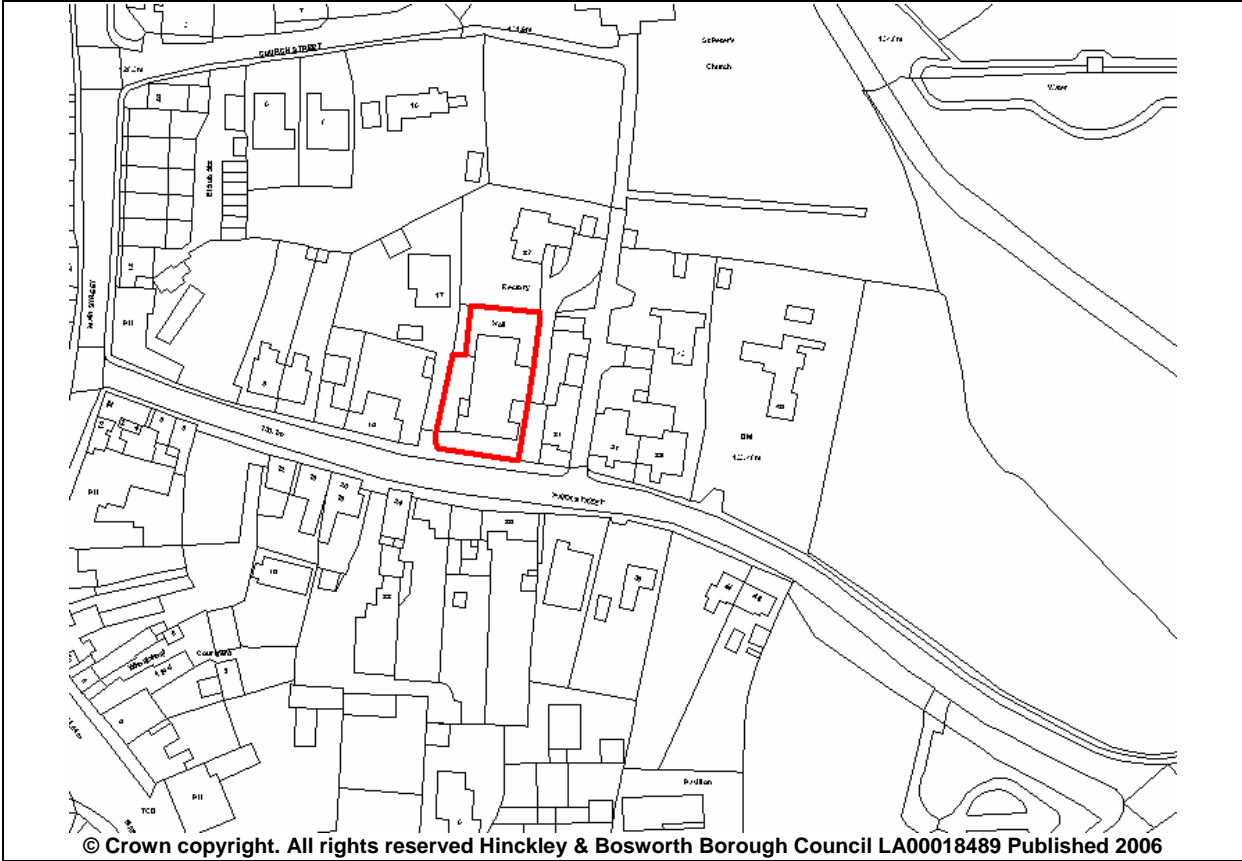
The planning application is accompanied by a design and access statement, conservation statement and a biodiversity statement. The design and access statement states that the

proposal has been designed with a view to providing extended and new community facilities in Market Bosworth. It also states that the layout allows for phased construction of the development and the design reflects the existing frontage and utilises materials that are indigenous to Leicestershire.

The conservation statement states that the scale of the proposal reflects the existing building and responds to the existing flat topography of the site. It also states that the ridge and eaves heights for the proposed two storey extension will ensure that the development appears subservient to the listed buildings that surround the site. Building lines within Park Street will also be respected.

History:-

99/00180/FUL	Construction of wheelchair ramp	Approved	29.04.99
97/01027/FUL	Proposed disabled access ramp	Approved	22.12.97
93/00471/4	Extensions and alterations to Assembly hall	Approved	28.07.93



Consultations:-

No objection has been received from:-
 Director of Environment and Transport (Highways)
 Head of Community Services (Land Drainage).

No objection subject to notes to applicant received from The Leicestershire Constabulary Crime Reduction Officer.

Site notice and Press notice were displayed and neighbours notified. Five letters of objection were received raising the following issues:-

- a) the area proposed as an external seating area could become a licensed café
- b) question raised about the hours of operation for the proposed café and terrace
- c) lack of parking in the area
- d) the two storey extension to the front of the parish hall is out of keeping
- e) impact of development on the conservation area
- f) impact on view
- g) noise generated by the external terrace area proposed to the café.

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

Directorate of Chief Executive (Archaeology)
Head of Community Services (Pollution)
Market Bosworth Society
Market Bosworth Parish Council
Severn Trent Water Ltd.

The consultation period remains open at the time of writing this report and expires on 26 May 2011. Comments received before the planning committee meeting will be reported and appraised as a late item.

Policy:-

National Policy

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

Planning Policy Statement 5: Planning for the Historic Environment sets out the Government's objectives on the conservation of the historic environment. It states that Local Planning Authorities should seek to identify and assess the particular significance of any element of the historic environment that may be affected by the relevant proposal.

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 recently given 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

No relevant policies.

Local Development Framework Core Strategy 2009

Policy 11 defines Market Bosworth as Key Rural Centre Stand Alone and requires new development to respect the character and appearance of the Market Bosworth Conservation Area by incorporating locally distinctive features of the conservation area into the development.

Hinckley and Bosworth Local Plan 2001

The site lies within the settlement boundary of Market Bosworth 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 requires new development to preserve or enhance the character and appearance of the conservation area and to be in sympathy with the merits of neighbouring development.

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

Supplementary Planning Guidance

The Market Bosworth Conservation Area Appraisal 2007 states that Park Street is an urban environment which is softened by a large number of mature trees and hedges. It also states that Park Street has an eclectic mix of properties from various ages and a number of listed buildings. The plan associated with this document identifies the application site as requiring improvements to the site frontage.

Appraisal:-

The main considerations with regards to this application are the principle of development, the impact of development upon the conservation area, impact on neighbours and highway issues.

Principle of development

The development proposes extensions to an existing community facility within the settlement boundary of Market Bosworth, where there is a presumption in favour of development. The proposed development will ensure the retention and extension of facilities to an existing community facility and allow more functions to be undertaken at the site. The existing parish hall is well established within the conservation area of Market Bosworth. Therefore the principle of development is considered acceptable.

Impact on the conservation area

The existing main hall has a ridge height of 6.8 m. The ridge height of the proposed two storey extension is 7.5 m, thereby giving a difference in ridge heights of 0.7 m. The design of the proposed two storey extension will continue to provide a symmetrical appearance to the parish hall frontage, albeit at two storey level. No objections have been raised by the conservation officer in relation to the design and scale of the proposed two storey extension and its impact on both the conservation area and upon the listed buildings located adjacent to and opposite the site. The scale and height of the proposed extension respects the dwellings adjacent to the site and the parish hall will be set significantly below the ridge of 31 Park Street to ensure that this listed building remains prominent within the street scene. The parish hall will not be sited any closer to the boundary with 31 Park Street, thereby allowing the existing spacing between buildings along the Park Street frontage to be retained and respected. Although the two storey extension to the side of the parish hall will project closer to the gable end of 15 Park Street to the west it will still retain a separation distance of 10.3 m within the Park Street frontage, thereby affording sufficient space for this key building (15 Park Street) to retain its visual prominence. The prominence of this building (15 Park Street) within the conservation area will be further improved by the setting back of the two storey extension from its front building line by 4 m. By virtue of its two storey extension the parish hall will also be sited no further forward in the street scene than 31 Park Street, thus reducing the impact of new development upon this listed building.

The proposed roof design with a steep pitch and a roof slope punctuated by a gable projection and hipped roof feature, together with first floor windows set above the eaves utilises design features that are locally distinctive to existing dwellings along the Park Street frontage, including the listed buildings. The additional detailing including the re-used stone portico entrance, stone cills and lintels, timber rafters, stone corbelling to the gable ends, ridge detailing and double windows at first floor level further reflects the use of locally distinctive design features of neighbouring properties within the conservation area. A condition will be imposed requesting samples, colours and finishes of all materials of construction to ensure the development is in keeping with the character and appearance of the conservation area and to ensure it fits with the existing parish hall building.

It is considered that the introduction of the new roof between the existing main hall and the two storey front extension will provide a continuous ridgeline between these two parts of the building and allow them to blend into one another and into the conservation area. The single storey extensions proposed to the side of the parish hall are of similar scale to the existing lean-to brick extensions and will provide a continuous built form with occasional window and door openings which are characteristic of the existing building.

For the reasons set out above the proposed development, by virtue of its design, scale, height and use of detailing is not considered to be detrimental to the character and appearance of the conservation area or to the listed or important buildings adjacent to site.

Impact on neighbours

The proposed two storey and single storey extensions will face onto a blank gable end of 31 Park Street, thereby resulting in no loss of residential amenity. There is a habitable ground floor window in the eastern elevation of 15 Park Street to the west. However given the separation distance of 12m from the wall of the proposed two storey extension to this habitable room window the potential for loss of residential amenity to this property through loss of light is considered to be negligible.

Highway Issues

The Director of Environment and Transport (Highways) has raised no objections to the proposed development in terms of highway and pedestrian safety. With regard to the proposed intensified use of the site and the potential for increased levels of parking on local roads, this will depend on a number of factors. These include the hours of opening, the events that are taking place and when they are taking place, the nature of the events, the frequency at which the facility is used, seasonality and the capacity of the facility. The site is located within the centre of the settlement and is easily accessible by various methods of transport. Therefore the potential for increased levels of parking on local roads is considered to be negligible.

Other issues

Demolition and Construction

Due to the siting of the development within the conservation area and the proposed phased schedule of works put forward with the application two conditions will be imposed to protect the character and appearance of the conservation area. Conditions will be imposed that request a contract for demolition and construction works be entered into with the relevant development contractor and an agreed phasing management plan be agreed with the Local Planning Authority prior to any development commencing. This will ensure that the timings of work are adhered to and that the site is developed within a reasonable timescale so that the site is not left in an untidy or unsafe state.

Impact on view

Impact on view is not a material planning consideration and is therefore not relevant to this case.

Hours of Operation

No information has been provided as to the existing hours of operation for the site. Therefore no comments can be made in relation to the potential for these operating hours to change. A request was made to the applicant's agent on 12 May 2011 for information relating to the existing opening hours for the parish hall and the potential opening hours for the café and external terrace. Once this information is received it shall be reported and appraised as a late item.

Use of External Terrace

The external terrace appears to be an area for overspill from the proposed café area. If this area was to become licensed then the applicant would have to apply for an alcohol license under separate legislation and would be considered by the Head of Community Services. The use of this terrace would be restricted to the existing opening hours of the parish hall. A request was made to the applicant's agent on 12 May 2011 for information relating to the existing opening hours for the parish hall and the potential opening hours for the café and external terrace. Once this information is received it shall be reported and appraised as a late item.

Conclusion

By virtue of its scale, height, massing, siting, detailing and use of materials the proposed development is not considered to be detrimental to the character and appearance of the Market Bosworth Conservation Area and is not considered to result in loss of residential

amenity to neighbouring properties. The proposed development ensures the retention and re-use of a key community building within the conservation area and results in the expansion and extension of a local community facility, thereby improving the range of services within the settlement. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions and subject to no significant planning objections being received before the expiry of the consultation period on 26 May 2011.

RECOMMENDATION:- That the Deputy Chief Executive (Community Direction) shall be granted powers to grant planning permission for the development subject to no significant planning objections being received before the expiry of the consultation period on 26 May 2011, 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. By virtue of its scale, height, massing, siting and use of materials the proposed development is not considered to be detrimental to the character and appearance of the Market Bosworth Conservation Area and is not considered to result in loss of residential amenity to neighbouring properties or result in highway safety issues.

Hinckley and Bosworth Council Local Plan (2001):- Policies BE1, BE7, NE2

- 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:- 09948-PL01, 09948-PL02 A, 09948-PL03 A and 09948-EX01 A.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed extensions 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 Before development commences, full details of the window and door style, reveal, cill, header treatment and materials of construction shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details.
- 5 Before development commences, full details of the eaves and verge treatment, guttering and down pipe (including materials and method of fixing) shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved details.
- 6 The demolition hereby permitted shall not be undertaken before a contract for carrying out of the works of re-development of the site has been made and agreed in writing with the Local Planning Authority and full planning permission has been granted for the re-development for which the contract provides.
- 7 No development shall take place until a timetable for the scheduling of demolition and construction works has been submitted to and agreed in writing by the Local Planning

Authority. The development shall be carried out in strict accordance with the agreed timetable of works.

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 policies BE1 and BE7 of the adopted Hinckley and Bosworth Local Plan.
- 4&5 To ensure that the development has a satisfactory external appearance to accord with policy BE7 of the adopted Hinckley and Bosworth Local Plan.
- 6&7 To protect the character and appearance of the conservation area in the interests of visual amenity to accord with policy BE7 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:- Scott Jackson Ext 5929

Item: 10

Reference: 11/00297/CON

Applicant: Market Bosworth Parish Hall

Location: Market Bosworth Parish Hall 25 Park Street Market Bosworth

Proposal: DEMOLITION OF EXISTING SINGLE STOREY WC'S AND ENTRANCE LOBBY TO FACILITATE EXTENSIONS AND ALTERATIONS TO PARISH HALL

Target Date: 14 June 2011

Introduction:-

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

Application Proposal

This application is for conservation area consent to demolish the single storey toilets and entrance lobby to the front of the existing parish hall.

Members are advised that this application is read in conjunction with planning application 11/00296/FUL for the erection of a two storey extension to the front of the existing parish hall together with two single storey extensions to the eastern side of the main hall.

The Site and Surrounding Area

The site is an existing parish hall located to the north east of the Market Bosworth Market Place, within the conservation area. The application site extends to 658 square metres, the majority of which is occupied by the parish hall building. The land at the rear of the building is used as a children's play area and the building is set back from the highway path by 5.3 metres. There is an existing vehicular access to the site in the south eastern corner together with a pedestrian access to the front. There is a 1 metre high hedge to the front boundary and a 1.8 metre close boarded fence and hedge along the western boundary.

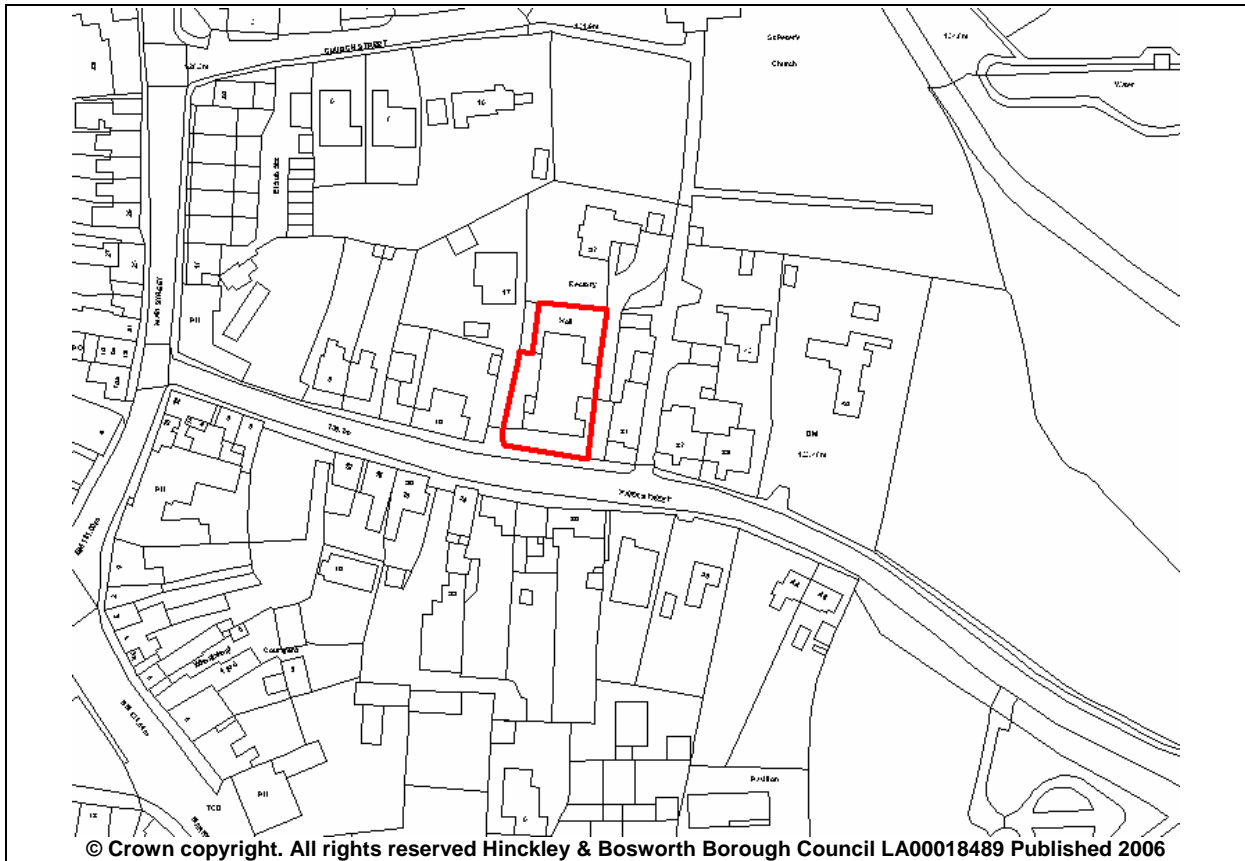
There are two vehicular accesses that run either side of the parish hall which serve dwellings to the rear. The area to the front of the parish hall is laid to paving slabs and tarmac and has a disabled ramp leading up to the main entrance lobby. The area surrounding the site is residential in nature and there are listed buildings immediately to the east and opposite the parish hall.

Technical Documents submitted with application

The planning application is accompanied by a design and access statement, conservation statement and a biodiversity statement. The design and access statement states that the proposal has been designed with a view to providing extended and new community facilities in Market Bosworth. It also states that the layout allows for phased construction of the development.

History:-

99/00180/FUL	Construction of wheelchair ramp	Approved	29.04.99
97/01027/FUL	Proposed disabled access ramp	Approved	22.12.97
93/00471/4	Extensions and alterations to Assembly Hall	Approved	28.07.93



Consultations:-

Site notice and Press notice were displayed and neighbours notified. Five letters of objection were received raising the following issues:-

- the area proposed as an external seating area could become a licensed café
- question raised about the hours of operation for the proposed café and terrace
- lack of parking in the area
- the two storey extension to the front of the parish hall is out of keeping
- impact of development on the conservation area
- impact on view
- noise generated by the external terrace area proposed to the café
- due to phased development being proposed the site could remain empty for a long period of time
- the removal of the hedge will be detrimental to the character and appearance of the area.

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

Directorate of Chief Executive (Archaeology)
Market Bosworth Society.

The consultation period remains open at the time of writing this report and expires on 26 May 2011. Comments received before the planning committee meeting will be reported and appraised as a late item.

Policy:-

National Policy Guidance

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

Planning Policy Statement 5: Planning for the Historic Environment sets out the Government's objectives on the conservation of the historic environment. It states that Local Planning Authorities should seek to identify and assess the particular significance of any element of the historic environment that may be affected by the relevant proposal.

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 recently given 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

No relevant policies.

Local Development Framework Core Strategy 2009

No relevant policies.

Hinckley and Bosworth Local Plan 2001

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

Policy BE8 states that applications for the demolition of buildings in conservation areas will be refused except where it can be demonstrated that the loss of the building will not be detrimental to the character or appearance of the conservation area and that there are proposals for its replacement which would preserve or enhance the character or appearance of the conservation area.

Supplementary Planning Guidance

The Market Bosworth Conservation Area Appraisal 2007 states that Park Street is an urban environment which is softened by a large number of mature trees and hedges. It also states that Park Street has an eclectic mix of properties from various ages and a number of listed buildings. The plan associated with this document identifies the application site as requiring improvements to the site frontage.

Appraisal:-

The main consideration with regards to this application is the impact of the development upon the character and appearance of the conservation area.

Impact on the conservation area

The proposed development involves the demolition of the front section of the parish hall within the conservation area that is identified in the Market Bosworth Conservation Area Appraisal as a site that requires improvements to its frontage. The proposal to demolish the front elevation of the parish hall is considered acceptable in principle as the development ties in with planning application 11/00296/FUL which is for a replacement scheme that proposes development upon the areas of the site that are identified for demolition. It is therefore considered that there are proposals in place that would replace the demolished buildings and which proposes redevelopment that enhances the character and appearance of the conservation area.

It is noted that there is a replacement scheme in place that has been assessed under planning application 11/00296/FUL that is considered to enhance the character and appearance of the Market Bosworth conservation area. However due to the siting of the development within the conservation area and the proposed phased schedule of works put forward with the application two conditions will be imposed to protect the character and appearance of the conservation area. Conditions will be imposed that request a contract for demolition and construction works be entered into with the relevant development contractor and an agreed phasing management plan be agreed with the Local Planning Authority prior to any development commencing. This will ensure that the timings of work are adhered to and that the site is developed within a reasonable timescale so that the site is not left in an untidy or unsafe state.

Other Issues

Objections raised in relation to this application.

It should be noted that objections a – g detailed in the consultations section of this report are material to planning application 11/00296/FUL for the extensions and alterations proposed to the parish hall and have been assessed in that separate report.

Removal of hedgerow

The proposals to demolish the front elevation of the parish hall involve the removal of the hedgerow to its front boundary with the highway. Although this is an established low level

hedge line within the conservation area, planning permission is not required for the removal of a hedge within a conservation area.

Impact on view

Impact on view is not a material planning consideration and is therefore not relevant to this case.

Conclusion

The proposed demolition involves the removal of buildings that are considered to be detrimental to the character and appearance of the Market Bosworth conservation area. There is a comprehensive replacement scheme under consideration that is considered to enhance the character and appearance of the conservation area. The impact of demolition upon the conservation area and the potential for construction to follow within a reasonable timeframe can be controlled by condition to ensure that the cleared site doesn't blight the conservation area for a long period of time. The application is recommended for approval subject to conditions and subject to no significant planning objections being received before the expiry of the consultation period on 26 May 2011.

RECOMMENDATION:- That the Deputy Chief Executive (Community Direction) shall be granted powers to grant planning permission for the development subject to no significant planning objections being received before the expiry of the consultation period on 26 May 2011, 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, it is considered that the demolition of the building would not be detrimental to the character and appearance of the Conservation Area and would be in accordance with the development plan subject to compliance with the conditions attached to this consent.

Hinckley and Bosworth Borough Council Local Plan (2001):- Policy BE8

- 1 The demolition hereby permitted shall not be undertaken before a contract for carrying out of the works of re-development of the site has been made and agreed in writing with the Local Planning Authority and full planning permission has been granted for the re-development for which the contract provides.
- 2 No development shall take place until a timetable for the scheduling of demolition and construction works has been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in strict accordance with the agreed timetable of works.
- 3 For the period of the demolition of the buildings, vehicle parking facilities shall be provided within the site and all vehicles associated with the demolition shall be parked within the site.

Reasons:-

- 1&2 To protect the character and appearance of the conservation area in the interests of visual amenity to accord with policy BE8 of the adopted Hinckley and Bosworth Local Plan.
- 3 To ensure that adequate off-street parking provision is made to reduce the possibilities of the demolition of the site leading to on-street parking problems in the area during demolition to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 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:- Scott Jackson Ext 5929

PLANNING COMMITTEE – 24 MAY 2011

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)
RE: CERTIFICATE OF LAWFUL PROPOSED USE

1. PURPOSE OF REPORT

To seek Committee approval to a proposed course of action in relation to a specific application for a certificate of proposed lawful use.

2. RECOMMENDATION

(i) That subject to no significant material observations being received by the end of the consultation period expiring on the 25 May 2011, the Deputy Chief Executive (Community Direction) be authorised to grant a certificate of lawful proposed use in relation to application 11/00279/CLU on the grounds that the use of premises for the care of a maximum of three children does not result in a material change of use. The suggested wording of the certificate is included later within the report.

3. BACKGROUND TO THE REPORT

3.1 Committee will recall that there was a report submitted to the 30 November 2010 meeting concerning a similar application for a certificate of lawful proposed use at this property, 15 Crownhill Road, Burbage. (Reference 10/00918/CLU).

3.2 This current application has been referred to Committee at the request of a local member and because there was substantial local interest in the previous application.

3.3 The current application is not a planning application. The application is for a Certificate of Lawful Proposed Use meaning that the application must be considered purely on the basis of evidence and law and not the planning merits. The application seeks to determine whether, considering the facts of the case and the relevant planning law, the proposal would be a lawful use and thus not require planning permission.

3.4 The previous application raised significant local interest. It was refused on the basis of insufficient information. In the absence of evidence to the contrary, it was considered that the application proposed a material change of use from Class C3 to Class C2, and, therefore, express planning permission was required.

3.5 This is a further request for a Certificate of Lawful Proposed Use for use of the dwelling as a children's home. The current application has been submitted with additional supporting information on the amount of use and method of operation of the proposal.

- 3.6 The application seeks a certificate confirming that planning permission is not required for change of use from use as a dwelling house (Class C3 of the Town and Country Planning (Use Classes) Order 1987) to use as a children's home.
- 3.7 The site is a five-bedroomed dwelling with gardens to the front and rear, located within a predominantly residential modern estate within the settlement boundary of Burbage.
- 3.8 Annexe 8 of Circular 10/97 gives guidance to Local Planning Authority's on the consideration of applications for such certificates to enable owners to ascertain whether specific uses are or would be lawful. The Committee is not therefore required to make a planning judgement on the merits of the proposed use.
- 3.9 The applicant is seeking registration with Ofsted, the relevant body for registration, to provide residential care for up to 3 children with learning disabilities, who may be aged between 10 and 18. Ofsted register different specific categories of children home which provide differing levels of care. The children do not exhibit emotional/behavioural difficulties and the 'home' will not be registered for this category of child care.
- 3.10 Details of the staffing arrangements have been included with the submission. The information submitted confirms that there will be a staff team of 11 who will normally work with no more than two staff on duty during the day and evening on schools days. During school days there will normally be two staff on duty between 07.00 and 08.00 to prepare young people for school. During the afternoons and evenings from 14.30 to 22.30, there will be two staff on duty unless additional staff are required to meet individual needs (occasionally an additional 1 individual). School transport collects the children between 07.45 and 08.15. They are returned between 16.00 and 17.00. During the school holidays and weekends there will be 3 staff on duty all day. Overnight there will normally be 1 waking night staff to support the young people and ensure that they remain safe and have their needs met. There will also be a member of staff sleeping in, who is available should more assistance be required by the waking night staff.
- 3.11 The applicant has confirmed that there are no structural alterations or adaptations required to the property although, it is intended to utilise the existing garage as a sensory room for the children. The applicant has stated that the intention is for the children to experience a 'typical family life in an ordinary local community'.
- 3.12 The applicant has stated that the intention is to provide residential respite/shared care/frequent short breaks as well as full-time placements. Personalised care packages will be created to meet the needs of each individual. The applicant has confirmed that he will apply to Ofsted for registration of the property as a children's home. The Ofsted Guide (2010) provides guidance on the application for registration of a children's home.
- 3.13 The Care Standards Act 2000 states that 'an establishment is a children's home.....if it provides care and accommodation wholly or mainly for children'.

3.14 Examples of children's homes include;

- homes for disabled children including those with physical and learning difficulties
- homes which provide short breaks, respite care.

3.15 It is considered that the current use of the premises is a Class C3 use (Dwellinghouse). For clarification, Class C3 uses are defined as;

(a) a single person or by people to be regarded as forming a single household;

(b) not more than 6 residents living together as a single household where care is provided for residents

3.16 Class C2 uses are defined as

- Use for the provision of residential accommodation and care (other than use within Class C3 (dwelling houses))
- 'Care' in Class C2 is defined as including the personal care of children

4. CONSIDERATIONS

4.1 It is considered that the proposed use of the property falls within Class C2 in that;

-it is to be registered as a children's home with Ofsted which is defined in the Care Standards Act 2000 as an establishment which provides care and accommodation wholly or mainly for children

-the definition of 'Care' in Class C2 includes the personal care of children and, reference to 'Care' in Class C3 will not by definition include children

-it is a moot point whether in the circumstances the residents could be considered as living together as a single household

5 MATERIAL CHANGE OF USE

5.1 It is considered that the current lawful use is as a dwelling house (C3) and that the proposed use falls within Class C2. No external or internal structural changes would be made.

5.2 It is axiomatic that whilst the 1990 Act makes clear that changes within a class are not development it does not state that a change from one class to another will be deemed material and therefore require an express grant of planning permission as representing development within the meaning of the Act

5.3 The key question is whether on the evidence provided the proposed use would be likely to constitute a 'material change of use' and therefore constitute development under Section 55 of the Town and Country Planning Act 1990. If the current lawful use is C3 then does the change from conventional dwelling house to the limited care provision proposed in the

application give rise to land use changes that would be regarded as **'material'** thereby triggering the requirement to obtain planning permission?

- 5.4 In this case, it is considered that the information submitted with the application is sufficient and precise to consider that the proposal is a Class C2 use but that the proposed movement between the two use classes, and the proposed use, is not considered material. This assessment has been made by comparing the base use of the property, which is a C3 dwelling house with 5 bedrooms, with the characteristics and activities associated with its proposed use for the care of 3 children. The element of care involved with the occupation of the dwelling by three children would be consistent with the level and nature of a use class C3 use of this size of dwelling. Therefore, a certificate for the proposed use should be issued. If the proposal is not operated in specific accordance with the certificate and is of a greater magnitude then the Council would need to re-assess whether the use required permission. A certificate can be drafted to set the parameters of the proposed use clearly.

6. OTHER ISSUES

- 6.1 Councillor Mayne has provided a copy letter from the Children and Young People Service at the Leicestershire County Council which confirms that no application has yet been made to them to register this property for use as a children's home. It is understood from the applicant that the property cannot be registered with the service until the planning issues are resolved. Clarification is being sought on this issue, however, it is not considered to be a material consideration in terms of determining the current certificate application.

7. CONCLUSION

- 7.1 It is considered that the proposal is a Class C2 use but that the proposed movement between the two use classes, and the proposed use, are not considered material. Therefore, a certificate for the proposed use should be issued as follows;

First Schedule

Use of the dwelling as a residential children's home for a maximum of three children aged between 10 and 18 years old. The premises will be registered homes for disabled children including those with physical and learning difficulties only with Ofsted and for no other category of child care. No external or internal structural changes would be made.

Second Schedule

15 Crownhill Road, Burbage

8. FINANCIAL IMPLICATIONS [CB]

There are no financial implications arising from the above report.

9. LEGAL IMPLICATIONS [MR]

Set out in the report.

10. CORPORATE PLAN IMPLICATIONS

None

11. CONSULTATION

There is no legal requirement to consult neighbours on Certificates of Lawfulness. This is because the matters to be determined are purely matters of evidence and law. However to allow for more transparency neighbour letters have been sent out, but, at the time of writing this report no responses have been received. The consultation period remains open until 25 May 2011. Any neighbour responses received prior to the meeting will be reported for information as a late item.

12. RISK IMPLICATIONS

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

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

13. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

Impact possible on neighbours

14. CORPORATE IMPLICATIONS

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

- Community Safety implications
- Planning Implications

Background papers: Application 11/00279/CLU
Contact Officer: Mike Rice 5831

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 Cemic Yavuz against the variation of condition 2 of planning permission (10/00565/COU) at 11 Windsor Street, Burbage

Appeals Withdrawn

Appeal by Mr Edward Cooper against the refusal of full planning permission for erection of single storey rear extension, dwarf wall, replacement porch and partially demolished garage (10/00843/FUL) at 287 Brookside, Burbage.

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

Appeals Determined

Appeal by Mr P. Rachael against the refusal of full planning permission (10/00693/FUL) for erection of 2 flats and associated access at 8 Mill Lane, Earl Shilton.

As a preliminary matter the grounds of appeal submit that the proposal comprises a slightly altered scheme to one granted planning permission by the Council under reference 08/00923/FUL.

In relation to this appeal, the Planning Inspector considered the main issue to be the effect of the proposal on the living conditions of adjoining residents particularly their outlook and appearance, by reason of position and mass of building.

The Planning Inspector referred to Local Plan Policy BE1 where one of the criteria is to avoid adverse effect on adjoining occupiers and Supplementary Guidance on New Residential Development where it is advised that there should be a minimum of 14 metres between the window of a habitable room and the blank wall of an adjacent dwelling.

Since the grant of the earlier permission, the fundamental difference between the Council and the appellant's argument is the erection of a conservatory behind no. 8 Mill Lane. The distance between the proposed building and the erection of this conservatory would be reduced to about 11 metres.

The Planning Inspector reiterated the Council's position, that the increased height, width, overall mass and proximity of the proposal to the boundary between the two properties would adversely affect the outlook of the occupiers of no. 8. Noting the appellant was of the opinion that the conservatory should not be considered as a habitable room and that the separation distance should be taken from the original dwelling.

It was considered by the Planning Inspector that the rear elevation would extend across a substantial proportion of the width of the garden. It was also considered that the eaves and ridge height would be greater than the previously permitted scheme, the most significant change to the occupiers of no. 8 being an increase of almost one metre in the eaves height.

In comparison to the approved scheme, the Planning Inspector stated that the combination of increased width and eaves height would mean it would have a substantially greater mass and presence when seen from no. 8 Mill Lane. As a result the Planning Inspector considered it would unacceptably dominate the majority of the outlook from this property, not only from the new conservatory, but from the original dwelling and its garden.

The overbearing impact was further compounded by the presence of first floor windows in the proposed north elevation that were absent in the previous scheme. Whilst these are shown to be obscure glazed they could still be opened and lead to direct overlooking of the garden to no. 8, adversely affecting the privacy of its occupants. To require them to be fixed lights would be unsatisfactory in a bathroom.

With regards to other matters, principally, the proposal was lacking sustainable design and technology measures; it was not clear to the Planning Inspector what exactly was lacking from the proposal in relation to this matter. Consequently the Planning Inspector afforded little weight to this ground of refusal.

Local concerns raised in a representation from residents of Roman Close regarding access and parking was also addressed by the Planning Inspector. During a site visit, it was noted that a limited number of vehicles were parked, and the Planning Inspector did not think as a result of this development that the proposal would have a significant impact in this regard.

The Planning Inspector came to the overall conclusion that the proposal would have an adverse effect on the living conditions of adjoining residents, with particular reference to their outlook and appearance, by reason of its position and mass. It would conflict with the objectives of Local Plan Policy BE1 and be unacceptable.

Inspectors Decision

Appeal dismissed (delegated decision)

4. FINANCIAL IMPLICATIONS (CB)

Potential legal costs can be met from existing budgets

5. LEGAL IMPLICATIONS (MR)

None

6. CORPORATE PLAN IMPLICATIONS

This document contributes to Strategic Aim 3 of the Corporate Plan

- Safer and Healthier Borough.

7. CONSULTATION

None

8. RISK IMPLICATIONS

None

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

None

10. CORPORATE IMPLICATIONS

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

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

Background papers: Appeal Decisions

Contact Officer: Kevin Roeton Planning Officer ext. 5919

PLANNING COMMITTEE - 24 MAY 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: 13.05.11

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
11/00011/VCON	EM	11/00108/CONDIT	WR	Mr Cemic Yavuz	11 Windsor Street Burbage	Start Date Questionnaire Statement of Case Final Comments	03.05.11 17.05.11 14.06.11 05.07.11
11/00010/PP	RW	10/00799/FUL	WR	Christopher Harbot	Rear of 132-136 Main Street Markfield	Start Date Statement of Case Final Comments	05.04.11 17.05.11 07.06.11
11/00009/PP	EM	10/00908/FUL	WR	Mr Jogi Singh	The Pantry 102 Rugby Road Hinckley	Start Date Final Comments	29.03.11 31.05.11
11/00007/ADV	LF	10/00678/ADV	WR	Primesight Ltd	Eastwoods Service Station Ashby Road Stapleton	Start Date Awaiting Decision	01.03.11
11/00002/PP	JH	10/00661/OUT	PI	Flude Family Settlement 2004	Land Adjacent to Hinckley Golf Course Leicester Road Hinckley	Start Date Proof of Evidence Public Inquiry (4 days)	02.02.11 17.05.11 14-17.06.11
10/00011/PP	RW	09/00915/OUT	PI	Mr John Knapp	26/28 Britannia Road Burbage	Start Date Awaiting Decision	15.11.10
09/00017/ENF	JC/ES	07/00031/BOC	PI	Mr P Godden	Land at Upper Grange Farm Ratby Lane Markfield	Start Date Statement of Case Public Inquiry (4 days) Temporarily Suspended	06.11.09 On hold pending JR

Decisions Received

10/00020/PP	JH	10/00408/OUT	PI	Morris Homes - East Ltd	Land Off Hinckley Road Stoke Golding	DISMISSED	10.05.11
11/00004/PP	LF	10/00816/FUL	IH	Mr Martin Morris	Land Adjacent New House Farm Stapleton Lane Dadlington	WITHDRAWN	10.05.11

Rolling 1 April 2011 - 13 May 2011

Planning

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision		
					Allow	Spt	Dis	Allow	Spt	Dis
5	0	2	0	3	0	0	2	0	0	0

Enforcement

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn