

Date: 13 June 2011

To: All Members of the Planning Committee

Mr DM Gould (Chairman)	Mrs WA Hall
Mr R Mayne (Vice-Chairman)	Mr MR Lay
Mr RG Allen	Mr J Moore
Mr JG Bannister	Mr K Nichols
Mr PR Batty	Mr BE Sutton
Mr CW Boothby	Miss DM Taylor
Mr DC Bill	Mr R Ward
Mrs T Chastney	Ms BM Witherford
Mr WJ Crooks	

Copy to all other Members of the Council

(other recipients for information)

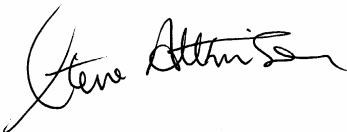
Dear Councillor

There will be a meeting of the **PLANNING COMMITTEE** in the Council Chamber, Council Offices, Hinckley on **TUESDAY, 21 JUNE 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



Steve Atkinson
Chief Executive

PLANNING COMMITTEE

21 JUNE 2011

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 24 May 2011, attached marked 'P6'.

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 'P7' (pages 1 – 88).

RESOLVED

8. ENFORCEMENT PROTOCOL

Report of the Deputy Chief Executive (Community Direction) attached marked 'P8' (pages 89 - 107).

RESOLVED

9. RELAXATION OF PLANNING RULES FOR CHANGE OF USE FROM COMMERCIAL TO RESIDENTIAL

Report of the Deputy Chief Executive (Community Direction) attached marked 'P9' (pages 108 - 121).

10. “PLANNING FOR TRAVELLERS SITES” CONSULTATION DOCUMENT

Report of the Deputy Chief Executive (Community Direction) attached marked 'P10' (pages 122 - 128).

RESOLVED 11. APPEALS LODGED AND DETERMINED

Report of the Deputy Chief Executive (Community Direction) attached marked 'P11' (pages 129 – 132).

RESOLVED 12. APPEALS PROGRESS

Report of the Deputy Chief Executive (Community Direction) attached marked 'P12' (pages 133 – 135).

RESOLVED 13. 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

24 MAY 2011 AT 6.30 PM

PRESENT: MR DM GOULD - CHAIRMAN
MR R MAYNE - VICE-CHAIRMAN

Mr CW Boothby, Mr MB Cartwright, Mrs T Chastney, Mr WJ Crooks, Mrs A Hall, Mrs L Hodgkins, Mr MR Lay, Mr J Moore, Mr K Morrell, Mr K Nichols, Mr BE Sutton, Miss DM Taylor, Mr R Ward and Ms BM Witherford.

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

13 **APOLOGIES**

Apologies for absence were submitted on behalf of Mr RG Allen, Mr JG Bannister, Mr PR Batty and Mr DC Bill with the following substitutions authorised in accordance with Council Procedure Rule 4.1:

Mrs Hodgkins for Mr Bannister
Mr Morrell for Mr Batty
Mr Cartwright for Mr Bill.

14 **MINUTES (P1)**

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

RESOLVED – the minutes of the meeting held on 27 April 2011 be confirmed and signed by the Chairman.

15 **DECLARATIONS OF INTEREST**

No interests were declared at this stage.

16 **DECISIONS DELEGATED AT PREVIOUS MEETING**

The Head of Planning reported on the following decisions which had been delegated at the previous meeting:

- (a) 11/00046/FUL – it was reported that the Section 106 agreement was still being drawn up;
- (b) 11/00224/FUL – the decision had been issued on 24 May 2011;
- (c) 11/00058/EXT – the decision had been issued on 28 April 2011;
- (d) 11/00222/CONDIT – this decision would be issued shortly.

17 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P2)

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).

Mr Sutton arrived at 6.40pm.

- (a) 11/00166/FUL – Agricultural Building for Livestock and storage of hay, Land East of Heath Road, Bagworth – Mr Darren Price

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

- (b) 10/00173/COU – Retrospective change of use from A1 (Delicatessen) to A3 (Café) – Mr Raymond Fudge

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

- (c) 11/00184/FUL – Erection of agricultural building, Land opposite Oak Farm, Ratby Lane, Markfield – Mr John Spiby

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

- (d) 11/00296/FUL – Extensions and alterations to Parish Hall, Market Bosworth Parish Hall, 25 Park Street, Market Bosworth – Market Bosworth Parish Hall

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

- (e) 11/00297/CON – Demolition of existing single storey WCs and entrance lobby to facilitate extensions and alteration to Parish Hall, Market Bosworth Parish Hall, 25 Park Street, Market Bosworth – Market Bosworth Parish Hall

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

- (f) 11/00228/FUL – Erection of one dwelling, detached garage and formation of access, Rear of 8 Sutton Lane, Market Bosworth – Mr & Mrs J Hitchcock

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

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

- (g) 11/00153/COU – Change of use of land from agricultural land to mixed use of agricultural and equestrian land and erection of associated buildings, Land at Markfield Lane, Thornton – Mrs Margaret Ashby

Notwithstanding the officer's recommendation that the application be approved subject to conditions, Members felt that the proposal impacted on the character of the countryside and did not meet the requirements of policy NE5 of the Local Plan. It was moved by Mr Boothby and seconded by Mr Crooks that the application be refused for these reasons.

The Head of Planning requested that voting be recorded on this motion.

Mr Boothby, Mr Cartwright, Mrs Chastney, Mr Crooks, Mrs Hall, Mrs Hodgkins, Mr Lay, Mr Moore, Mr Morrell, Mr Nichols, Mr Sutton, Miss Taylor, Mr Ward and Ms Witherford voted FOR the motion (14);

Mr Gould and Mr Mayne voted AGAINST the motion (2).

The motion was therefore declared CARRIED.

RESOLVED – the application be refused for the following reasons:

In the opinion of the Local Planning Authority the proposed development by virtue of the number and proliferation of the buildings together with their location within the site would have a harmful impact upon the openness of the site and the character and appearance of the countryside in which it is located. It is therefore considered to be contrary to Planning Policy Statement 7: Sustainable Development in Rural Areas and Policy NE5 of the adopted Hinckley and Bosworth Local Plan.

- (h) 11/00281/FUL – Extensions and alterations to dwelling (retrospective), 3 Lime Avenue, Groby – Mrs Alka Mistry

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

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

- (i) 11/00260/COU – Change of use from storage to leisure, Dennis House, 4 Hawley Road, Hinckley – Mr David Johnson

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

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

- (j) 11/00004/FUL – Change of use from agricultural barn to holiday cottages including extension and alterations, White Gate Farm, Mythe Lane, Witherley – Mr M Ketcher

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

RESOLVED – subject to no significant material observations being received by the end of the consultation period expiring on 25 May 2011, the Deputy Chief Executive (Community Direction) be granted delegated powers to grant planning permission subject to the conditions contained in the officer's report.

18 CERTIFICATE OF LAWFUL PROPOSED USE (P3)

Members were presented with a report regarding a request for a certificate of lawful proposed use at 15 Crownhill Road, Burbage. It was explained that the proposed use of the premises was for the care of a maximum of three children and officers felt that this did not result in a material change of use. Members were reminded that this was not an application for permission, but was about whether this was a lawful use under current planning legislation.

Members were concerned about the impact on local residents, particularly due to problems which had occurred in the past. In response to further discussion on the use of the premises, officers reminded Members that the activities within the building and the standard of care were a matter for OFSTED.

Members felt that the planning system was at fault in suggesting that permission wasn't required for such changes of use and it was requested that representations be made to the Government with regard to this.

Members considered that the proposed use as described in the application would be a material change of use.

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

RESOLVED –

- (i) a certificate of lawful proposed use be not granted;
- (ii) representation be made to the Government regarding the need to apply for planning permission in certain situations.

19 APPEALS LODGED AND DETERMINED (P4)

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

RESOLVED – the report be noted.

Mr Boothby left the meeting at 8.37pm.

20 APPEALS – PROGRESS (P5)

A schedule was submitted indicating the stages that various appeals against planning decisions had reached. It was noted that the appeal with regard to Eastwoods Service Station had been dismissed. On the motion of Mr Nichols, seconded by Mr Crooks, it was

RESOLVED – the report be noted.

(The meeting closed at 8.42pm)

REPORT P7

PLANNING COMMITTEE

21 June 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 - 21 June 2011 - NUMERIC INDEX

REF. NO.	APPLICANT	SITE	ITEM	PAGE
11/00029/OUT	Hallam Land Management Ltd	Land South Of Newbold Road/ Manor Road Junction Desford	01	2
11/00219/REM	Mr Mark Horsley	St Martins Convent Hinckley Road Stoke Golding	02	14
11/00270/FUL	Mr John Sinfield	Bagworth Community Centre Station Road Bagworth	03	28
11/00271/FUL	Mr Roy Hartley	62 Castle Street Hinckley	04	36
11/00363/CON	Mr Roy Hartley	67 Stockwell Head Hinckley	05	50
11/00287/FUL	The Crown Estate	Shackerstone Barns Wharf Farm Station Road Shackerstone	06	55
11/00290/FUL	Mr Richard Cobley	Snowdene Farm Main Street Botcheston	07	62
11/00365/COU	Mr Peter Dean	Land Adj 50 Forest Rise Groby	08	68
11/00402/COU	Mr Raymond Fudge	Peppercorn Cottage 8 Market Place Market Bosworth	09	73
11/00406/DEEM	Hinckley And Bosworth Borough Council	Florence House St Marys Road Hinckley	10	82

Item: 01
Reference: 11/00029/OUT
Applicant: Hallam Land Management Ltd
Location: Land South Of Newbold Road/ Manor Road Junction Desford
Proposal: RESIDENTIAL DEVELOPMENT (OUTLINE - ACCESS ONLY)
Target Date: 18 April 2011

Introduction:-

This is an outline application for residential development at land south of Hunts Lane, Desford. The site is located in open countryside outside the defined settlement boundary for Desford. It is agricultural land abutting the western edge of Desford and existing dwellings on Manor Road, St Martins Drive, Cambridge Drive and Oxford Drive.

The application proposes the erection of up to 150 dwellings with associated infrastructure, public open space and the provision of vehicular and pedestrian access. It is an outline application with all detailed matters except access reserved for future consideration.

The application initially proposed that allotments would form part of the public open space. Following questions about the need for allotments they have been omitted from the application.

The access is proposed from a new roundabout at the junction of Hunts Lane and Manor Road.

Technical Documents

A Design and Access Statement has been submitted which appraises the site and its context and the rationale for the proposed layout and design of the development.

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

A desktop Archaeological Report and Heritage Assessment have been carried out to look into whether the site has any archaeological interest. This has been supported by a Geophysical Survey Report. The County Council has requested trial trenching works and further consideration is likely to be required and is discussed in more detail in the body of this report.

A Flood Risk Assessment has been carried out and confirms that the site is at a low risk of fluvial flooding and is considered to be acceptable development in this zone.

An Agricultural Land Classification survey concludes that the site is predominately Grade 3a land with some Grade 2. Grade 3a is the lowest category defined as best and most versatile.

A Habitat Survey Report identifies that there is no ecological interest within the site other than for the seasonal nesting of birds within the hedgerows. Any works to the hedgerows should be carried out at the appropriate times of the year.

The Tree Assessment Report notes that due to the agricultural use of the land trees are only located within or adjacent to hedgerows on the boundaries of the site. There are no TPOs or other protection of any of the trees. It identifies that one reasonable tree will unavoidably be lost to provide the new access, but other good species should be incorporated into the proposed structural landscaping which is shown on the masterplan.

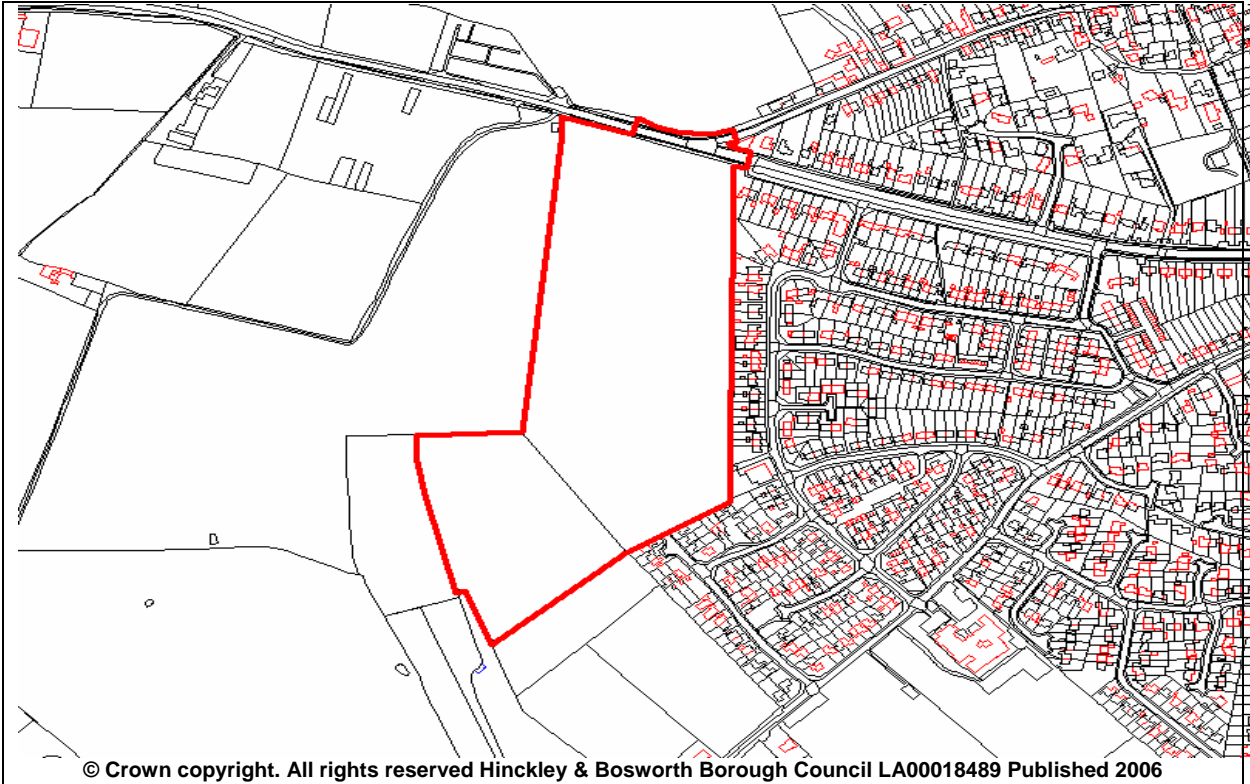
An illustrative masterplan provides an indicative layout for the site with hedgerows and trees retained as far as possible and reinforced with structural landscaping; formal and informal open space provided within the site; a footpath connection is proposed from St Martins Drive; provision of a sustainable drainage (SUDs) system is planned and it indicates how the layout aims to provide a sense of character at the new entrance from Hunts Lane.

A planning statement provides an explanation of how the proposal seeks to satisfy Core Strategy Policies and 5 year land supply and provides general justification for the proposal given its countryside and edge of settlement location and its selection as a preferred option for the extension of Desford in the emerging Site Allocations DPD.

A Housing Needs Statement and Addendum have been produced to demonstrate the need in Desford for the proposed number of dwellings.

History:-

None relevant.



Consultations:-

No objections subject to conditions have been received from:-

- Head of Business Development and Street Scene Services (Waste Minimisation)
- Head of Community Services (Pollution)

Directorate of Chief Executive, LCC (Ecology)
Director of Environment and Transport (Highways)
Severn Trent Water.
The Environment Agency
The Leicestershire Constabulary Crime Reduction Officer
Head of Corporate and Scrutiny Services (Green Spaces).

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

- a) Director of Children and young Peoples Services (Education)
 - Total contribution (Primary School Requirement) £205,683.17

- b) Director of Environment and Transport (Civic Amenity)
 - Any unit £45.19

- c) Director of Adults and Communities (Libraries)
 - 1 bed unit £27.18
 - 2 bed unit £54.35
 - 3 or more bed units £63.41

The National Health Service has registered an interest in receiving a developer contribution towards healthcare. They note that any contribution must comply with CIL and state that they are realigning their justification to comply with CIL. However, no details of, or justification for, a contribution have been submitted.

Director of Chief Executive (Archaeology) having assessed the information submitted by the applicant have requested that field evaluation, including trial trenching, is undertaken before this application is determined.

Desford Parish Council has concerns about the maintenance of the open spaces and expects the developer to make a financial contribution to cover these costs. They question the need for additional allotments, noting that there is adequate local provision and no waiting list for allotments. Concerned that there provision could be a long term financial burden and would prefer to see the provision of other types of open space, such as informal mounds and hills for cycling or sledging.

Site notice and Press notice were displayed and neighbours notified.

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

- a) Adverse impact upon existing local infrastructure
- b) intrusion into open countryside which will spoil setting of Desford
- c) additional traffic and associated impact upon highway safety
- d) loss of existing vegetation
- e) contrary to planning policy and more dwellings than originally proposed
- f) adequate brownfield land suitable for development elsewhere
- g) overlooking and loss of privacy
- h) question future maintenance of hedgerows and ditches
- i) asking for clarification of details – distances to new dwellings, retention of trees and hedgerows and future of open space?
- j) loss of views
- k) reduction in property values
- l) noise, disturbance and dust associated with the construction of the development
- m) will exacerbate existing surface water drainage problems

- n) no need for proposed footpath link
- o) applicants will gain financially
- p) proposed bus stop will disturb neighbour and have an impact upon highway safety.

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

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.

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

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

The PPS states the need for Local Planning Authorities to set out policies and strategies for delivering housing provision which will enable continuous delivery of housing for at least 15 years. Further to this, sufficient specific deliverable sites to deliver housing in the first five years should be identified. Paragraph 71 of PPS3 states that where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites they should consider favourably planning applications for housing having regard to the policies within the PPS and particularly paragraph 69 which lists the following considerations:

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

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

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

Planning Policy Guidance Note 13 – Transport sets out national transport planning policy. With regards to parking provision this states that Local Authorities should 'not require developers to provide more spaces than they themselves wish' and that 'reducing the

amount of parking in new development is essential, as part of a package of planning and transport measures, to promote sustainable travel choices’.

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

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

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

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

Regional Policy

The Court of Appeal, in May 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS’s proposal to abolish regional strategies. The Court confirmed that the Government’s proposal to abolish regional strategies is a material planning consideration, but that is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

The Local Development Framework Core Strategy 2009

Policy 7 supports housing development in the Key Rural Centres, which include Desford.

Policy 8 allocates a minimum of 110 dwellings within Desford to allow for flexibility in the level of housing provision.

Policy 14 encourages the provision of a range of sustainable transport to support accessibility within rural areas.

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

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

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

Hinckley and Bosworth Local Plan 2001

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

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

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

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

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

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

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

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

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

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

Supplementary Planning Guidance/Documents

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

Other Material Considerations

The application site has recently been publicised as a preferred option for allocation for a residential development in the Draft Site Allocations and Generic Development Control DPD. This does not, by itself, provide justification for permitting development ahead of the plans adoption as explained in Para 17, of ODPM's Planning System General Principles guide and detailed above.

Appraisal:-

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

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

Principle of Development

The proposed development site is located on the western fringe of Desford adjacent to existing residential uses to the east ,open fields to the west and south and Hunts Lane to the north.

The site is reasonably accessible by bus and car, with a footway along Manor Road linking into the centre of Desford. A footpath link is proposed from St Martins Drive.

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

The application is therefore contrary to this policy unless there are material planning considerations that indicate that it is acceptable on other grounds and that those considerations outweigh the harm caused to policy by the development.

The availability of land locally and the 5 year supply of land are considered in detail below.

Housing Supply

The East Midlands Regional Plan (March 2009) forms part of the statutory development plan providing the overarching policy context for the consideration of planning applications of strategic importance in the Region. The Secretary of State has recently written to local authorities stating that it is the Government's intention to abolish regional spatial strategies and return decision making powers on housing and planning to local councils. Consequently decisions on housing supply should be made by local planning authorities without the framework of regional numbers and plans. Local Planning Authorities and the Planning Inspectorate should have regard to his letter as a material planning consideration in any decisions they are currently taking.

However, the East Midlands Regional Plan has not been formally abolished until the Localism Bill has been enacted and therefore it still forms part of the statutory development plan, therefore its content in relation to housing figures is still relevant.

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

The Council does not have a 5 year housing land supply; it currently stands at 4 years. With respect to PPS 3 the contribution which this site would make to that shortfall carries some weight.

Housing Need in Desford

Core Strategy Policy 8 states that land will be allocated in Desford for a minimum of 110 new homes. This application proposes the development of up to 150 dwellings. As part of the Core Strategy evidence base the Authority produced a Rural Housing Needs Methodology Paper which used the 2004 population projections as a baseline for the distribution of housing across the rural area.

On the basis of this methodology and subsequent completions the baseline figure which has been agreed with the applicant is 116 dwellings. This application would create an over provision of up to 34 dwellings. In accordance with Policy 8 applicants are expected to demonstrate that the number, type and mix of housing proposed will meet the needs of Desford.

The spatial vision for the rural areas is that services will be maintained so that centres such as Desford continue to act as sustainable hubs for their own populations and surrounding villages. This is to be achieved by maintaining 2004 population levels unless monitoring and review under paragraph 4.12 of the Core Strategy indicates that the maintenance of services requires a higher level of population growth and development. In April 2011 the Authority produced a policy advice note on Demonstrating Housing Need in Rural Areas, describing the evidence that is required where the proposed housing numbers exceed the minimum number of houses specified in the Core Strategy. In this case the applicants have submitted a Housing Needs Statement, together with an addendum which was produced in response to the initial comments of officers to demonstrate the need for the erection of the number of dwellings proposed by this development. The previous comments from the Authority on the issue of housing need requested the applicant to identify whether the delivery of the additional dwellings (now agreed at 34 dwellings) would enable existing service provision to function more effectively. Services such as school enrolments, capacity for school expansion, surgery capacity and public transport services were given as a guide.

The applicant considers that their needs statement provides evidence which justifies the provision of up to 34 dwellings more than the agreed baseline. It states that a development of up to 116 dwellings would not bring forward many of the benefits of a development of up to 150 dwellings. It assesses public open space, education, health care, library provision and transport sustainability, all of which are considered below.

The applicant has stated that a development of up to 116 dwellings would not enable an over-provision of open space to be provided on site. While additional open space is advantageous to the community and adds to the sustainability credentials of the scheme, an over-provision is not a requirement of planning policy. It must also be noted that the over provision of open space would probably not accord with Circular 05/05 or the Community Infrastructure Regulations 2010 (CIL).

The applicants' needs statement identifies the local primary school is nearing capacity and that the school is taking steps toward creating additional capacity. In addition the statement also identifies that Desford Medical Centre is nearing capacity but can accommodate approximately 89 additional patients. It is appreciated that the development of a lower number of dwellings would result in reduced contributions, but less dwellings would also reduce the pressure on place provision at the school and medical centre. It is not therefore considered that the provision of an additional 34 dwellings would enhance the school and medical centre to enable them to function more effectively. These figures demonstrate that these services are not at risk of closure and are in fact nearing capacity at this moment in time.

In relation to Desford Library, it is appreciated that the development of a lower number of dwellings would result in fewer new materials, but it would also result in reduced demand on the service. In addition there is no evidence to suggest that an increase of up to 34 dwellings above that prescribed by the Core Strategy would result in longer or additional opening hours.

In relation to transport sustainability, it is not clear why a pedestrian link in the south east corner of the site could not be delivered as part of a scheme for 116 dwellings opposed to 150 dwellings. It is also difficult to comment on an indicative design relating to connectivity and its benefits for 150 dwellings opposed to one for 116 dwellings because a revised illustrative plan for 116 dwellings has not been presented to the authority.

It is understood that a higher population can increase patronage for existing public transportation however there is no evidence to suggest that an additional 34 dwellings would result in an increased number or frequency of buses. In addition there is no evidence to suggest that these services are currently under threat.

The applicant has demonstrated that through contributions the impacts of the additional dwellings could be mitigated in relation to these services. It is considered however that these services would be maintained and enhanced to service the identified housing increase of 116 without the additional contributions supplied through the additional 34 dwellings. It is considered that the applicant has not adequately demonstrated that service provision would not function effectively without the additional 34 dwellings.

Character and Appearance of the Countryside

The site lies outside the defined settlement boundary for Desford and is within the Countryside.

It is a single, irregularly shaped arable field forming part of the setting of Desford . The site slopes away from Hunts Lane and is a significant feature when approaching Desford from Newbold Verdon. It is well defined by existing hedges and a few trees.

The application seeks to demonstrate that the development of the site will not result in any adverse visual impact on the character of the area. The open agricultural character will, inevitably, be lost through the developed and urban feel of a residential development. However the application has demonstrated that there will be opportunities to ensure the balance between providing homes and providing an attractive and green development of a high quality through the reserved matters process.

Whilst the current application is only in outline form, any reserved matters application would be required to demonstrate how the scale, layout, appearance and landscaping of the site further ensure the development assimilates within the site and does not have an adverse impact upon the adjacent countryside. Careful consideration will need to be given to the

scale and layout of dwellings and the proposed structural landscaping will be a conditional requirement to ensure that an appropriate and high quality development is achieved.

The impact of the development of this site upon the character and appearance of the country side was assessed during the production of the Core Strategy. While the proposal would have an impact it is not reasonable reason to resist the development on this basis.

Highways

The application proposes to create a vehicular access from a new roundabout on Hunts Lane.

The Director of Environment and Transport (Highways) has no objection to the proposal subject to conditions.

Impact on Neighbours

The impact on adjacent occupiers would be a primary consideration at the reserved matters stage when the scale, layout and appearance would be submitted.

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

A number of neighbour objections have been received on the grounds of privacy and overlooking and uncertainty about some of the details of the proposed development. These matters would be addressed at the reserved matters stage. In the current outline application there is no information or indication that the development will result in any adverse and material impact upon adjacent neighbours.

Arising issues of noise and pollution during construction are not considered to be material considerations in the determination of this application. Comments relating to loss of views and property values are also not considered to be relevant.

While the development will give rise to increased traffic there is no evidence that suggests this would be to the detriment of either existing residents or general highway safety.

Comments relating to impact upon existing vegetation and the future maintenance of landscaping could reasonably be addressed at the reserved matters stage.

The reference to surface water drainage is noted, but there is no evidence that the site would not be adequately drained.

Affordable Housing

The applicant has committed to providing 40% affordable housing within the draft Heads of Terms with tenure split which is in accordance with Core Strategy Policy 15. The likely number of affordable units and the mix of dwelling types has not been determined at this stage.

The provision of affordable units would be secured through a Section 106 Agreement.

Developer Contributions

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

CIL confirms that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. In such cases, and where the development is needed to meet the aims of the development plan, it is for the local authority and other public sector agencies to decide what is to be the balance of contributions made by developers and by the public sector infrastructure providers in its area supported.

The consultation responses set out in the above sections of this report specify the requests from Leicestershire County Council for contributions towards highways (public transport), libraries, Rights of Way and civic amenity per dwelling. An unspecified request has also been received from the National Health Service.

The contributions requested by the National Health Service, Amenity and Libraries fail to demonstrate the impact of the development and how this justifies the need for the contribution and or works and the value of it.

The request by LCC Education is believed to be CIL compliant.

The applicants have agreed to the provision of a mix of on site open space together with a contribution for the future maintenance of these areas, in accordance with relevant policies and the Play and Open Space Guide SPD (2008). The final adoption of these areas would be agreed before a legal agreement was completed.

The provision and maintenance of the open space would be included in a Section 106 Agreement.

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

Flood and Drainage

The Environment Agency have confirmed that they have no objection to the proposal, subject to conditions. Details of drainage would be submitted at the reserved matters stage and the Environment Agency would be consulted again at that point.

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

Ecology

The submitted Habitat Survey Report confirms that there is no overarching ecological interest within the site other than that of the potential for nesting birds during certain times of the

year. The indicative masterplan shows that the boundary hedgerows will be retained as far as possible to avoid unnecessary loss. The statutory controls of the Wildlife and Countryside Act and others will ensure no work can take place to the hedgerows during the nesting season.

Archaeology

The applicants have produced a desk based archaeological assessment and a geophysical assessment. These identify little of likely archaeological interest. The applicant has stated that they are prepared to dig trial trenches before submitting reserved matters and take account of any findings in the final layout of the development. This approach has been accepted on another development elsewhere in the county.

The County Archaeologist does not accept this approach in this case and has requested that the trial trenching is undertaken before this outline application is determined. After careful consideration this is felt to be unreasonable in this case and it is proposed that if permission were to be granted a condition would be imposed to secure trial trenching before development commences.

Conclusion

The principal issue to consider in the determination of the application is the need for the additional dwellings above the agreed baseline of 116 dwellings. In accordance with Core Strategy Policy 8 the applicant was requested to demonstrate the need for these dwellings.

It should be noted that the aim of the Core Strategy is not to accommodate and mitigate a growing population in rural areas, but to maintain population levels and service provision. It is considered that the applicant has not adequately demonstrated that service provision would not function effectively without the additional 34 dwellings. Consequently, it is considered that the proposal would be contrary to Policy 8.

RECOMMENDATION:- REFUSE, for the following reason:-

Summary of Reason for Recommendation and Relevant Development Plan Policies :

Reason:-

- 1 In the opinion of the Local Planning Authority, the applicant has failed to provide information which adequately demonstrates housing need in Desford in excess of the agreed baseline of 116 dwellings. The proposal would therefore fail to meet the requirements of Policy 8 of the adopted Core Strategy.

Contact Officer:- Pat Reid Ext 5895

Item: 02
Reference: 11/00219/REM
Applicant: Mr Mark Horsley
Location: St Martins Convent Hinckley Road Stoke Golding
Proposal: ERECTION OF 59 DWELLINGS (SITING, APPEARANCE, LAYOUT AND LANDSCAPING)
Target Date: 4 July 2011

Introduction:-

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

This application is the reserved matters submission for the development of 59 dwellings at St Martins Convent, Hinckley Road Stoke Golding.

The outline consent provided approval for the access only and required reserved matters applications to be submitted for the layout, scale, appearance and landscaping to include the following details:-

- a) External building materials
- b) provision for vehicle parking on site
- c) provision for vehicle turning on site
- d) method of disposal of surface and foul water drainage, which shall be on separate systems
- e) existing trees and hedges on the site, which are to be retained
- f) provision to be made for screening by walls and fences
- g) phasing of the development
- h) floor levels of the proposed dwelling; in relation to the existing ground level and the finished levels of the site
- i) provision to be made for the storage of refuse and/or recycling facilities.

The site has been subdivided, with the western most area, area 'A' being used to provide 59 dwellings at a density of 39 dwellings per hectare and area 'B' being retained for agriculture, allotments, on-site open space, trees and ecological planting and drainage and utilities.

The development is inward looking, with the dwellings facing a central road. Private driveways lead from this, creating smaller pockets of development. An equipped play area is situated centrally. The rear gardens buffer the perimeter tree lined boundaries. The dwellings are predominantly gabled roofed and 2 storey in height and range from 2 to 4 bedrooms.

The Site and Surrounding Area

The site is situated to the rear of St. Martin Catholic School and is accessed via a 90 metre private driveway. The site is roughly square and has an area of 3.2 hectares. The northern and western boundaries are maturely vegetated with the trees along the western boundary forming part of a TPO. The eastern and southern boundaries bound open fields. Site levels fall significantly from north to south by approximately 4 meters. There are a variety of buildings on site. A flat roofed courtyard development dating from the 1960's, incorporating a

chapel is situated centrally, with a redundant barn and various sheds and outbuildings sited towards the northern boundary.

Technical Documents submitted with application

The application is accompanied by a Design and Access Statement which states that the proposal will be sympathetic to the character and appearance of the existing development within the area, will result in a legible environment which is easy to understand, will offer a diverse choice of accommodation, will promote ease of movement for all modes of transport, will create new public and amenity space and will promote habitat promotion through additional tree planting and landscaping and by the provision of a balancing pond.

The following documents relating to surface and foul water drainage have been submitted:- Flood routing plan; storm drainage strategy; surface water drainage calculations; private drainage construction; drainage plan, and the adoptable drainage construction.

A landscaping plan illustrating the trees to be retained, planted and removed and detailing species and density of planting.

Hard landscaping and boundary plan illustrating the different surface and materials to be used and heights and changes in boundary treatment.

Topographical survey showing the changing levels on site and the neighbouring external ground levels.

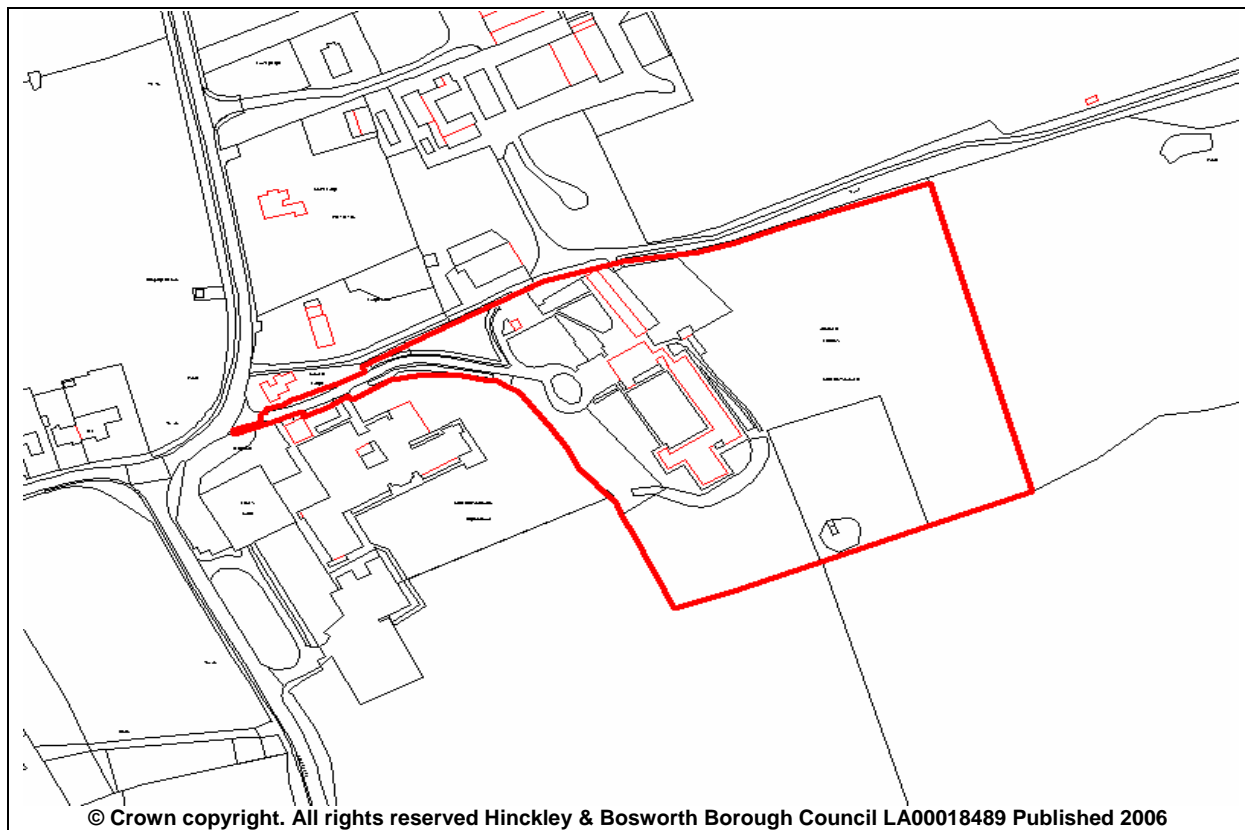
A schedule of proposed materials has also been submitted with the application and a package of materials submitted during the course of the application. These include Hanson Village Sunglow, Hanson Village Honey Gold, Hanson Harborough Buff Multi, for detailing;- Blue Engineering bricks. The roof tiles proposed are; Russell Peat Brown and Slate Gray.

Following concerns raised by officers, the applicant has provided further information/amendments to the following and re-consultation has been undertaken:-

- a) Surface water drainage information
- b) a schedule of proposed materials
- c) re-siting of the equipped play space and changes to the site layout; the equipped play has been sited on the original central green feature and plots 12 and 44 have been repositioned and the house type amended.
- d) clarification that the development will be constructed in a single phase.

History:-

10/00358/OUT	Residential development for up to 59 dwellings (outline – access only)	Approved	09.09.10
07/00629/FUL	Demolition of Existing Building Erection of Replacement Retirement Facility Comprising 127 Units and Associated Facilities	Withdrawn	05.09.09



Consultations:-

No objection has been received from:-

Director of Environment and Transport (Highways)
Directorate of Chief Executive (Ecology)
Director of Environment and Transport (Rights of Way)
Head of Community Services (Land Drainage)
Head of Community Services (Pollution)
Head of Corporate and Scrutiny Services (Green Spaces).

No objection subject to conditions have been received from:-

Head of Business Development and Street Scene Services (Waste Minimisation)
Environment Agency
Severn Trent.

Site notice and Press notice were displayed and neighbours notified.

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

- a) Highway safety issues
- b) infrequent bus service in the locality
- c) loss and destruction of the countryside.

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

The Leicestershire Constabulary Crime Reduction Officer
The Primary Care Trust

The Borough Council's Arboricultural Consultant
Stoke Golding Parish Council
Sutton Cheney Parish Council
Ward Members.

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

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

Paragraph 71 states that where the LPA cannot demonstrate an up-to-date five year supply of deliverable sites, they should consider favourably planning applications for housing, having regard to the policies in PPS3 and considerations in paragraph 69. Paragraph 69 requires the LPA to ensure that the proposed development is in line with planning for housing objectives, reflects the need and demand for housing in, and the spatial vision for, the area and does not undermine wider policy objectives. In addition, development should provide high quality housing of a good mix and make effective and efficient use of land.

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

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

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

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

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

Regional Policy

The Court of Appeal, in May 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS's proposal to abolish regional strategies. The Court

confirmed that the Government's proposal to abolish regional strategies is a material planning consideration, but that it is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

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

Stoke Golding is classed as a Key Rural Centre (stand alone) within this document.

Policy 11 refers to development in Key Rural Centres and with regards to Stoke Golding states that the council will: allocate land for the development of a minimum of 60 new homes; support additional employment provision; support the improvement of GP facilities; address the existing deficiencies in green space and deliver safe cycle routes.

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

Policy 16 seeks residential development to provide a mix of housing types and tenures at a minimum density of 30 dwellings per hectare within Key Rural Centres.

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

Policy 5 – Transport Infrastructure in the Sub-regional Centre sets out transport interventions to support additional development in and around the sub-regional centre, to promote sustainable development. The interventions include improvements to the provision and management of car parking and public transport to support the increased use of Hinckley Town Centre.

Hinckley and Bosworth Local Plan 2001

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

Policy BE1: Design and Siting of Development of the adopted Hinckley and Bosworth Local Plan states that planning permission for development proposals will be granted where they: complement or enhance the character of the surrounding area; ensure adequate highway

visibility and parking standards; do not adversely affect the amenities of neighbouring properties; incorporate landscaping to a high standard; and would not be prejudicial to the comprehensive development of a larger area of land of which the development forms part.

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

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

Policy RES3 of the adopted Hinckley and Bosworth Local Plan concerns the provision of affordable housing on sites not specifically allocated for residential purposes. This sets out that an element of affordable housing will be negotiated with developers related to the need for affordable housing in the area in which the site is situated. Affordable dwellings may be provided on site, off site or by financial contribution.

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

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

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

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

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

While the application site is highlighted on the Local Plan Proposals Map as subject to policy CF2b, alternative use of existing educational and community sites, the preamble to this policy states that where proposals are outside settlement boundaries they should be considered against the countryside policies of the Plan. It is therefore considered that this policy is not applicable to this site.

Other material policy guidance

Supplementary Planning Guidance / Documents

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

Appraisal:-

The principle of residential development on this site has already been established by the earlier grant of outline planning permission which was subject to conditions and a Section 106 agreement. The outline application was for access only.

The main considerations with regards to this application are those of layout, scale, appearance and landscaping, and the matters specifically detailed in the introduction to this report as needing to be submitted with the reserved matters application.

Layout

The submitted plans show a layout for 59 dwellings. Since submission an amended layout has been received.

For the avoidance of doubt the amended plan illustrates that the equipped play space has been re-sited. It is now situated on what was formally identified as the 'Central Green Feature'. In addition to this, the position of a number of plots have been slightly amended for residential amenity reasons.

The unequipped play space remains within the eastern (undeveloped) half of the site.

The layout proposes one main access road off Hinckley Road which then winds centrally through the site, off which there are a number of small private driveways creating pockets of development.

The Equipped play area is situated centrally within the site, creating a focal point and is surrounded by residential properties, ensuring natural surveillance and integration into the development. The Informal play area is sited in the eastern (undeveloped) half of the site to the rear of plots 18 and 19, with an access leading directly from the equipped play space. The siting of this is considered acceptable as the facility would generally be used by older children, and thus would not require as high a level of natural surveillance and would host activities which would require a larger area of space.

The proposal has been designed to be inward facing onto the road frontages with parking bays attached where possible, providing both natural surveillance and attractive street scenes. All dwellings to the peripheries are facing inwards towards the centre, addressing the road and creating gardens to the rear which provide a buffer to the perimeter tree lined boundaries. Dwellings' occupying prominent positions on corners plots and those providing visual end stops have been carefully considered to ensure that there are no dull or blank frontages.

Plots 12 and 44 have been re-sited to ensure that adequate rear amenity space is provided and that there is sufficient space between buildings and no detrimental impact on the trees bounding the site. The remaining two, three and four bed dwellings propose appropriately sized gardens in accordance with the standards set out in the Council's SPG on New Residential Development.

Scale

The scheme proposes a range of terraced, semi-detached and detached 2, 3 and 4 bed properties occupying differing footprints and ranging in height from 2 storey to 2.5 storey, with a maximum of 1.5 meters between ridge heights. It is considered that the differing scales add interest within the site and due to the enclosed nature of the site, are acceptable within the setting.

Appearance

In relation to the visual appearance of the built environment, there are a range of house types proposed within the scheme and the pallet of materials and finishes chosen alternate between the different types. Architectural features including brick header and footer fenestration detail, corbelling and string courses, and design features including porches, chimneys and dormer windows add interest to each dwelling and subsequently the external appearance of the site as a whole. The varying footprints and heights of dwellings on the site also result in a more interesting appearance. The cottage style adopted for many of the smaller dwellings, and the materials and details chosen, respects the local vernacular and further relates the development to its surrounds.

In respect of other visual elements, dwellings are set back from the street and have small front gardens and parking is generally clustered adjacent to the dwellings, thus creating soft frontages. A range of boundary treatments have been carefully chosen to ensure that they fulfil both functional and aesthetic requirements and thus add further interest to the overall appearance of the scheme. In addition, whilst hard and soft landscaping will be discussed later in the report it is considered that this also enhances the overall appearance of the site.

Cumulatively as a result of the differing styles, features, materials and architectural detail it is considered that an attractive scheme would be provided.

Hard and Soft Landscaping and Play and Open Space

The application has been accompanied by hard and soft landscaping plans and a tree plan. The existing vegetated boundaries to the site are to be planted with additional trees to increase the density of the existing screening and additional tree planting is proposed along the northern, eastern and southern boundaries to help soften the appearance of the built development when viewed from the undeveloped area and fields to the east. An area of woodland planting is also proposed to the east of the developed area which will both screen the development and enrich the biodiversity of the area. The tree plan indicates that a cluster of trees to the north western corner of the site are to be removed, however as these are situated internally they have little amenity value and their loss is not considered detrimental to the character or visual amenity of the site. The TPO protected trees along the western boundary are to be retained and plot 44 has been re-sited further forward to ensure the trees will not be subject to pressure for removal from future residents. Native hedgerow planting is proposed to strengthen existing boundaries and will aid assimilation of the development into its agricultural setting.

The hard landscaping plan illustrated that various surfacing materials will be used to denote private areas and driveways, the 'homezone' and traffic calming measures. The differing materials chosen will result in a highly legible environment

The previous outline application secured provision for onsite and/or offsite open space, together with a children's equipped area for play through an agreed Section 106 agreement. The equipped play area is to be sited centrally within the site, however specific details have not yet been submitted. The details are currently being negotiated, and it is intended that the design of the play area will have a more naturalistic approach in line with the latest National Playing Fields Association guidelines.

Residential Amenity

Given the extensive screening to the site it is considered that the proposed development will not have a detrimental impact on the amenity of neighbouring residential properties.

Noise and odour

Comments have been raised by the Head of Community Services (Pollution) regarding the potential impact on the amenity of future residents from the adjacent pig farm. A site visit has been undertaken to assess the impacts of noise and odour. It is considered that as the noise from pig movement is only for a short duration once a week, through the design and layout of the proposal internal noise limits can be met. However in respect of the noise generated from the grain dryer, during the time of assessment this was not working and thus could not be assessed. In respect of this, discussions have been conducted with the agent who has clarified that they will be providing the farmer with a new grain dryer. Accordingly a condition will be imposed to assess the impacts of this when up and running. Odour is not considered to be an issue as the wind direction is not commonly in the direction of the site and the Head of Community Services (Pollution) does not have any historic complaints in respect of the site.

Accordingly, subject to conditions there are no material impacts in respect of noise and odour.

Other Issues

As part of the outline approval and attached conditions, other details were also requested, of which some have been considered within the application thus far and the remainder will now be considered.

- a) external building materials
- b) provision to be made for vehicle parking on the site
- c) provision to be made for vehicle turning within the site
- d) method of disposal of surface and foul water drainage
- e) existing trees and hedges on the site, which are to be retained
- f) provision to be made for screening by walls and fences
- g) phasing of the development
- h) floor levels of the proposed dwelling; in relation to the existing ground level and the finished levels of the site.
- i) provision to be made for the storage of refuse and/or recycling facilities.

External Building Materials

During the course of the application brick and tile samples have been submitted. The bricks include Hanson Village sunglow, Hanson Village Honey Gold and Hanson Harborough Buff Multi and the tiles comprise large plain clay 'Russell' tiles in Peat Brown and Slate Gray. Whilst the use of the Village Honey Gold and the Village sunglow are considered acceptable, the use of the Harborough Buff is not as this is a very plain brick which lacks detail and texture. The use of the large plain clay tiles are acceptable in colour, but their size is too large for the style of the dwellings proposed, which are predominantly small cottage style. Accordingly a smaller tile has been requested. If additional materials are submitted, their acceptability will be discussed as a late item. Notwithstanding this it is considered necessary to impose a condition in the interim to ensure that these details will be submitted to and approved in writing by the Local Planning Authority.

The Provision for Vehicle parking and Turning

As part of the outline approval details were also requested for the provision to be made for vehicle parking and turning within the site.

Each dwelling has 2 designated car parking spaces. Parking has been divided up within the scheme so that some is within the highway, to the side of dwellings and some is in clusters where there is a run of terraced properties. No garages are proposed. Adequate provision has been made for turning within the site.

Initial observations from the Director of Environment and Transport (Highways) objected to the proposal due to emergence of the central 'Green' feature and the problems this would cause for vehicle tracking and visibility. However an amended plan has been received illustrating a one-way tracking system around the 'Green', and this has been considered acceptable by the Director of Environment and Transport (Highways) who have subsequently removed their objection.

Surface and Foul Water Drainage

As part of the outline approval details were also requested for the method of disposal of surface and foul water drainage, which shall be on separate systems. The application has been accompanied by a Flood Routing Plan; a Storm Drainage Strategy; Surface Water Drainage Calculations; Private Drainage Construction details; a Drainage Plan and the Adoptable Drainage Construction.

No objections have been received from either the Environment Agency or Severn Trent in respect of the methods of foul drainage proposed, and thus this is considered acceptable.

Throughout the course of the application further documentation has been requested by the Environment Agency and submitted by the agent in respect of the management of surface water runoff. Since the submission of additional surface water runoff calculations and the clarification of which method of surface water management is to be used, the Environment Agency has revised its comments. The method of surface water management proposed is now considered acceptable, however this is dependent upon the use of third party land. The use of this land is subject to a legal agreement between the farmer who owns it and the applicant. This agreement is currently in the hands of the landowners' bank, who has yet to sign. The landowner has verbally agreed that the proposal would be acceptable to him. The Environment Agency has advised that this agreement would need to be signed prior to the application being determined. However following discussions it has been agreed that the signing of this document can be dealt with by way of condition. Accordingly, subject to the signing of the legal agreement, the proposed method of surface water management is considered acceptable.

Trees and Hedges

A landscaping plan illustrating the trees to be retained, planted and removed and detailing species and density of planting has been submitted with the application.

The site is densely screened with mature vegetation along its northern and western boundaries, with the trees situated within these boundaries being subject to a group TPO. The application has proposed the removal of some of the trees along the site access and those currently situated on plots 1 – 6. The loss of these trees, due to them being sited internally, is not however considered to the detriment of the overall character of the site, nor does it compromise the sites screening and thus their removal is considered acceptable. The mature trees along the sites boundaries, which form part of the TPO and are of significant amenity value, are to be retained. Additional planting is proposed to strengthen the existing vegetated boundaries, comprising of large and medium broad leafed species, and new screen planting comprising of similar is proposed along the eastern and southern boundaries of the 'developed' area of the site.

Plots 12 and 44 have been re-sited further forward to ensure that there is no future pressure for removal of the trees which form their rear boundaries and screen the site.

An area of woodland planting is proposed within the area to the east of plots 20 to 28. This will both help screen the site and create new habitats for wildlife.

The landscaping plan makes no reference to the hedges which are to be retained, but provides details that the new hedges proposed will comprise native species.

The accompanying Design and Access Statement makes reference to the landscape strategy; this proposes maximum tree retention and extensive tree replacement to strengthen existing boundaries and create new habitats.

Comments have not yet been received from the Borough Council's Arboricultural Consultant in respect of the proposal. These will be reported as a late item.

Provision for screening by walls and fences

The boundary details plan proposes the following:-

- a) 0.9m high timber post and 2 strands wire fencing for the rear and intermediate garden fences
- b) Brick dwarf walls with 1.8m high brick piers and timber infill panels above to 1.8m total height for rear garden boundaries and where boundaries are adjacent to public space.
- c) 0.9m metal ranch fencing where front gardens are adjacent to private space.
- d) 1.8m high close boarded timber fences with 1.8m high ledged and braced gates to plots.
- e) 450mm high timber bollards at a distance of 1.7m apart.

The appearance of the of the boundary treatments proposed is considered appropriate and will not be harmful to the overall design concept of the scheme and the character of the immediate area. The proposed walls and fences together with planting provide further screening and softens the appearance of the overall scheme.

Phasing of the Development

The agent has confirmed that due to the number of units proposed, the development will be delivered in a single phase

Floor Levels

A levels plan illustrating level changes across the site and on land adjacent to the site has been submitted. Although there is a change in level from north to south of approximately 4m, as a result of the layout and house types proposed there will be no material impacts in respect of overlooking of adjacent properties.

Storage of Refuse/Recycling Facilities

The scheme has been considered by Head of Business Development and Street Scene Services (Waste Minimisation) who has commented that it is unclear as to whether the roads will be adopted and that refuse collection is only from adopted roads. In respect of the collection from the private drives, it is stated, as this development could be for the older generation, in this case collection from designated collection points would be considered unsuitable. A condition requiring details for waste and recycling storage across the site has

thus been requested. In response to this the applicant has clarified that there is sufficient space on each plot to cater for the storage of refuse and recycling facilities and there are only 4 plots accessed off a private driveway, the furthest of which is only a distance of 10 m from the adopted highway. For clarification, the main road running through the development will be adopted by the County Highways Authority. Accordingly, the condition requested is considered unreasonable in this case and the waste storage facilities proposed, acceptable.

Developer Contributions and Affordable Housing

A Section 106 agreement was completed at the outline stage to secure developer contributions for affordable housing, on and off-site public play and open space and bus passes and bus pass contributions. 40% of affordable housing was to be provided, split between 50% social rented and 50% intermediate housing. In respect of the affordable housing element of the S106 agreement the agent has requested a deed of variation, on viability grounds. The Local Planning Authority, the HCA and the agent are currently undertaking discussions to resolve this issue. Any developments will be reported as a late item.

This application is for the approval of reserved matters following that outline approval and therefore no further legal agreement is required in this case.

Management of Play and Open Space, Allotments and Wooded Area

The S106 agreement which was agreed at outline stage covered the management and maintenance of the equipped and unequipped play and open space. In respect of the allotments and wooded area, the future management and maintenance of these has been discussed with the agent who has stated that the Parish Council have verbally confirmed that they will take on the management of these. However confirmation of their commitment has not been received in writing. This issue does not however need to be resolved as part of this application. It has been agreed that any landscaping which falls outside of the boundaries of individual plots will be owned and maintained by third parties.

Letters of Objection

The 3 letters of objection outlined above specifically raise the following issues:-

- a) That the proposed junction is not safe for school children and that the proposed roundabout and crossing are poorly sited.
- b) the proposed access road is too narrow and that alternatives should be considered
- c) that busses are infrequent and that residents would not use them
- d) Dadlington should remain a small village
- e) the access is not safe
- f) development of the countryside will cause a loss of habitats to the detriment of local wildlife.

In respect of the above concerns, the access and highway improvements were considered and approved at the outline stage and further details have been requested by way of condition. These details are not for consideration by this application and will be appraised separately.

A contribution has been requested by the S106 agreement to secure improvements to the local bus service and residents will be encouraged to use this mode of transport by the provision of 6 month free travel pass.

The housing numbers for new development for specific settlements have already been subject to public consultation and approval. The requirement for Stoke Golding is 59, which this application provides. The principle of the development has already been accepted at outline stage.

This application proposes to introduce features to enhance habitats and increase wildlife within the vicinity of the site, including new woodland planting, a balancing pond and a large bat house.

Conclusions

The principle of residential development on this site has already been established by the previous outline planning consent. The scheme is considered to be acceptable in terms of layout, scale, appearance, landscaping and other matters and does not give rise to any impacts upon residential amenity.

It is considered that the additional information submitted in respect of surface water runoff is sufficient and subject to the signing of the legal agreement between the landowners and the adjacent farmer there will be no adverse impacts in respect of surface water runoff.

Accordingly, it is considered that this reserved matters application be recommended for approval, subject to the previous conditions attached to the outline application and additional conditions as suggested.

RECOMMENDATION:- Permit subject to the following conditions:-

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

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

Hinckley & Bosworth Local Plan (2001):- Policies; BE1, REC2, REC3, RES3, RES5, T5, T9, NE2, 1MP1

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (2009):- Policies; 5, 11,15, 16.

- 1 The development shall be carried out strictly in accordance with the conditions set out in the outline planning permission 10/00358/OUT except as may be modified herein.
- 2 The development hereby permitted shall be carried out in complete accordance with the details:-

Planning Layout received 6/6/11

Hard Landscaping and Boundary Layout received 3/6/11

Tree Proposals Layout Drawing - P023 received 20/4/11

Boundary details P022 received 20/4/11

Boundary drawing details P022 received 20/4/11

Topographical Survey Drawing - 10713_OGL5 received 20/4/11

DB32 Fire Vehicle Alignment Paths - STO/DBB2F/001 received 31/5/11

Flood Routing Plan; Storm Drainage Strategy; Surface Water Drainage Calculations; Private Drainage Construction; Drainage Plan; Adoptable Drainage Construction received 16/5/11

House Types received 20th April 2011:-
D1A, D1B, D1C, G1A, G1C, J1A

House Types received 6.6.11:-
G1WFB, G2WF2C

- 3 Development shall not begin until a signed legal agreement for the off site elements of the proposed surface water drainage scheme for the site, as shown on drawing numbers 11108-D04 Revision C and 11108-D05 Revision C, has been submitted to and approved in writing by the Local Planning Authority.
- 4 The development shall be carried out in accordance with the surface water drainage design as shown on drawing numbers 11108-D04 Revision C and 11108-D05 Revision C, and the following mitigation measures detailed within these drawings, unless otherwise agreed in writing by the Local Planning Authority:
 - a) Limiting the surface water run-off generated by all rainfall events up to the 100 year plus 30% (for climate change) critical rain storm to 3l/s, so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
 - b) Provision of a minimum of 269m³ of surface water run-off attenuation in the form of an online twin pipe structure.
 - c) Provision of a minimum of 240m³ of surface water run-off attenuation in the form of an online open water balancing pond.
- 5 Notwithstanding the submitted details, no development shall take place until representative samples of the types and colours of materials to be used on the external elevations of the proposed plots 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.

Reasons:-

- 1&2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the required surface water management proposals can be delivered in accordance with Planning Policy Statement 25 - Development and Flood Risk
- 4 To ensure satisfactory provisions are made for the drainage of the site and the site does not lead to flooding to accord with policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 5 In the interests of visual amenity, to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 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: 03

Reference: 11/00270/FUL

Applicant: Mr John Sinfield

Location: Bagworth Community Centre Station Road Bagworth

Proposal: EXTENSION AND ALTERATIONS TO CLUB HOUSE

Target Date: 29 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 recreational/leisure use.

Application Proposal

Full planning permission is sought for the erection of two single storey extensions to an existing single storey club house which serves Bagworth Bowls Club.

The submitted plans indicate that the development will take place in 2 phases. Phase 1 involves the extension to the west of the existing club house to create two toilets and entrance area measuring approximately 5 by 4.65 metres to a maximum height of 2.8 metres. Phase 2 is for an extension to the club house projecting from the east by 9.3 metres in length and 4.2 metres in width, and 2.9 metres in height in line with the existing club house.

The materials proposed are smooth rendered blockwork, with a green paint finish with felt roof, upvc framed glazing units and timber doors, all to match the existing club house. The applicant has confirmed that there is no external lighting proposed.

The Site and Surrounding Area

The existing club house is used in conjunction with the bowling green, located immediately to the north west and the wider site is occupied by a community centre and children's centre, with associated parking to the front of the site.

The site is located to the east side of Station Road and there are residential dwellings located south and west of the site. A line of mature trees provides some screening of part of the site from Station Road, and there is the presence of a mature hedgerow to the south of the site.

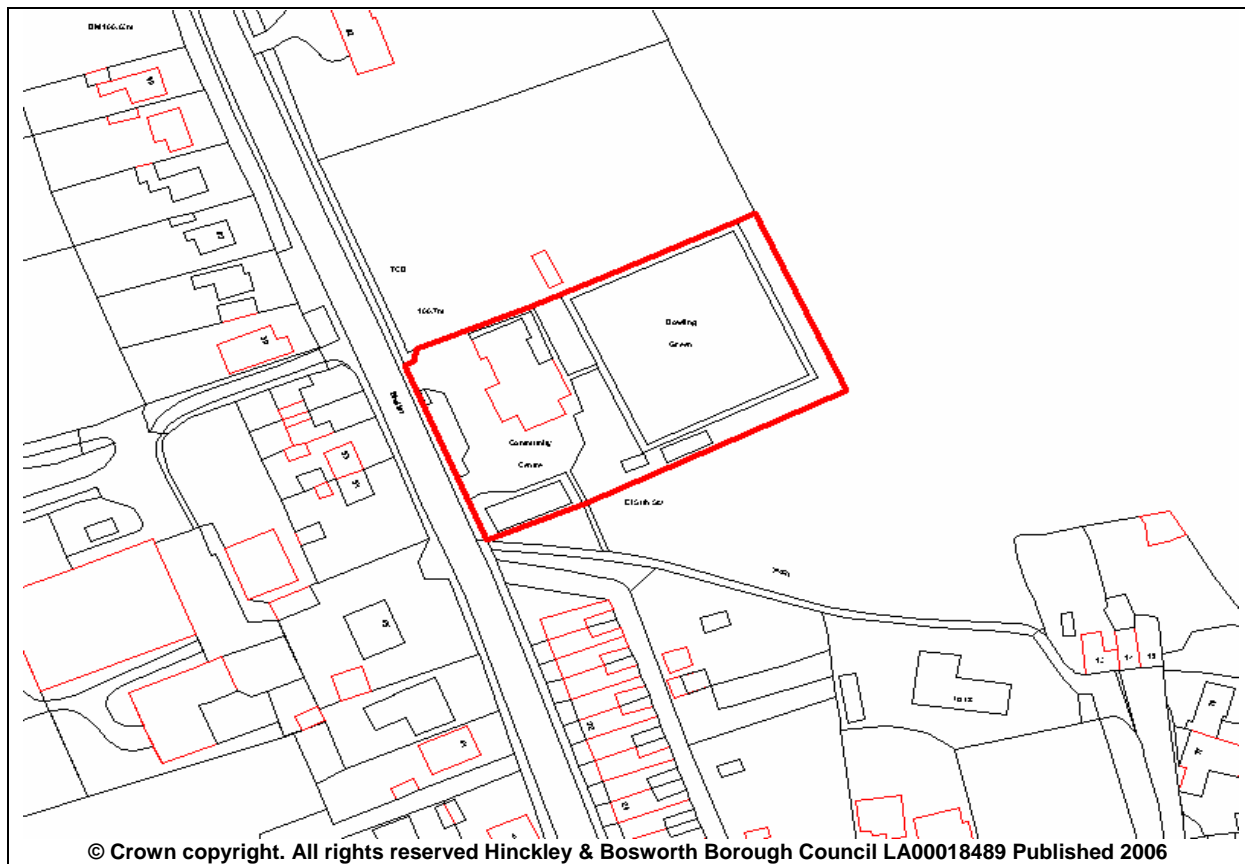
Two footpaths R33 and R57 cross the field to the south of the site. The site is located within the settlement boundary of Bagworth within the National Forest, and designated as a Recreational Facility, as defined by the adopted Hinckley and Bosworth Local Plan.

Technical Document submitted with application

The application is accompanied by a Design and Access Statement which states the extensions are required to provide toilet facilities for the comfort of staff and members and to improve the overall image to attract further members and that overall the scale and character is appropriate for the purpose of the building.

History:-

10/00242/C	Application for non material amendment pursuant to planning permission refer 2009/0908/04 to alter the location of the children's centre	Approved	08.04.10
10/00258/FUL	Extensions and alterations to Community Centre	Approved	15.06.10
08/01089/FUL	Erection of a Youth Shelter	Approved	13.01.09
06/00953/FUL	Erection of Community Centre	Approved	21.12.06
04/00105/COU	Change of Use of Part of Community Centre to Post Office	Approved	15.03.04
03/01260/FUL	Erection of a 10 Metre High Street Lamp	Approved	02.02.04
00/00049/FUL	Siting of a Storage Container	Approved	16.02.00
97/00900/FUL	Extension to Community Centre to Form Bowls Club Pavilion and Erection of Flagpole.	Approved	08.04.97



Consultations:-

No objection/comment has been received from:-

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

The Leicestershire Constabulary Crime Reduction Officer suggests that the windows and doors are carefully considered to ensure that valuable items are safe on site.

Director of Environment and Transport (Rights of Way) does not consider that the development should significantly impact upon the footpaths, given that the footpaths fall to the south of the site.

Site notice displayed and neighbours notified.

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

Bagworth and Thornton Parish Council
Ward Members.

The consultation period remains open at the time of writing and closes on 9 June 2011. Any further consultation response received before the closing date will be reported and appraised as a late item.

Policy:-

National Policy 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 Guidance 17 (PPG17): 'Planning for Open Space, Sport and Recreation' sets out the Government's commitment to the need for sport and recreation development and seeks to deliver rural renewal, social and community inclusion, health and well-being and promotes sustainable development. The PPG encourages development for sport and recreation in appropriate locations.

Regional Policy

The Court of Appeal, in May 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS's proposal to abolish regional strategies. The Court confirmed that the Government's proposal to abolish regional strategies is a material planning consideration, but that is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

East Midlands Regional Plan 2009

None relevant.

Local Development Framework Core Strategy 2009

Policy 10: 'Key Rural Centres within the National Forest' specifically supports the improvement in the quality of Bagworth Sports Pavilion and Sport ground and address the existing deficiencies in the quality, quantity and accessibility of green space and play provision.

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

Policy 21: 'National Forest' support proposals that contribute to the delivery of the National Forest subject to the siting and scale of the proposed development is appropriately related to its setting within the Forest; respects the character and appearance of the wider countryside and the development does not adversely affect the existing facilities and working landscape of the Forest or the wider countryside.

Hinckley and Bosworth Local Plan 2001

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

Policy REC1: 'Development on Recreational Sites' states that there is a presumption against development on land and buildings currently used for recreation and open space unless particular criteria can be met.

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

Policy 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 the character of the surrounding area; avoids the loss of open spaces which contribute to the quality of the local environment; has regard to the safety and security of individuals and property; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; does not adversely affect the occupiers of neighbouring properties.

Policy 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 Play and Open Space provides further guidance on open space provisions for development.

Other material policy guidance

The Council's adopted Green Spaces Strategy identified the bowling green at the community centre as providing outdoor sports and intends to protect and improve the quality of existing outdoor sports facilities.

Appraisal:-

The main considerations in the determination of this application relate to the principle of development, siting and design and wider impacts upon the National Forest, impact upon residential amenity, highway considerations and other matters.

Principle of Development

The site is designated as an existing recreation site in the adopted Hinckley and Bosworth Local Plan. The proposal falls to be considered in terms of policy REC4 and the overarching intentions of PPG17. Policy REC4 requires that the development satisfies the following criteria:-

- a) That large scale indoor facilities are located in or adjoining built up areas
- b) the facility does not have a detrimental effect on adjacent land uses or the amenities of adjacent dwellings
- c) the form scale and design are in keeping with the area and do not detract from the character of the landscape

- d) adequate parking and access arrangements are provided and there is sufficient capacity in the local road network
- e) landscaping is provided as part of the proposal
- f) the proposal is not detrimental to the rights of way network and
- g) the proposal does not adversely affect sites of ecological, geological or archaeological significance.

In summary, there is no in principle objection to the scheme providing that all other matters can be adequately addressed. For the reasons discussed in this report, it is not considered that there are any issues which would suggest that the scheme would be contrary to Policy REC4 of the Local Plan or other relevant Saved Local Plan Policies.

Siting and Design and Wider Impacts upon the National Forest

The extensions are intending to project off an existing club house located to the south east of the site, ensuring that the building is located as close to the adjoining built up area as possible in line with the requirements of Saved Local Plan Policy REC4 (a).

The proposed extensions are considered of an acceptable size and do not project any wider or higher than the existing club house and are intended to be constructed and finished in matching materials ensuring a consistent appearance.

Given the position of the club house to the south east of the site, the extensions will not be visible from Station Road, although will be more visually prominent from the east of the site, given the drop in site levels to the rear of the site however, given the design and scale of the extensions, it is not considered that the development would be visually obtrusive.

The site lies close to the settlement boundary of Bagworth and to the east of the site the land is located outside the settlement boundary and as such is defined as countryside. Bagworth also falls within the National Forest, as defined by the adopted Hinckley and Bosworth Local Plan. It is considered that given the existing use of the site and the siting and minor scale of the extensions that the development would not give rise to any material visual impacts upon the character and appearance of the surrounding National Forest landscape.

In summary, it is considered that the extensions are sited in the most logical position, to the existing club house and to the south east corner of the site and the scale and design of the extensions are considered acceptable. By virtue of their positioning, scale and design the extension do not give rise to any significant visual impacts upon the wider landscape. As such, the extensions are considered in accordance with Saved Local Plan Policy EC4 (c).

Impact upon Residential Amenity

The nearest residential dwellings are located some 20 metres away to the south of the site, and there is the presence of a mature hedgerow to the southern boundary of the site. Given the distance, screening and by virtue of the relatively minor scale of the extensions there would be no impacts upon the nearest neighbouring dwellings. There are no other dwellings impacted upon as a result of the proposals. As such, the extensions are considered to be in accordance with Saved Local Plan Policies REC4 (b) and BE1.

Highway Considerations

The existing vehicular access and parking arrangements will remain unchanged. The scheme has been considered by the Director of Environment and Transport (Highways) whom has no comments to make on this application. As such it is therefore considered that

the extensions are considered to be accordance with Saved Local Plan Policy T5 and Policy REC4 in terms of requirement (d).

Director of Environment and Transport (Rights of Way) does not consider that the development should significantly impact upon the footpaths, given that the footpaths fall to the south of the site. As such it is therefore considered that the extensions are not detrimental to the rights of way network and in accordance with Saved Local Plan Policies REC4 in terms of requirement (f).

Other Matters

Landscaping has not been proposed as part of the application, and as such would not be considered to be in accordance with Saved Local Plan Policy REC4 (e). However, there is the presence of hedgerows to the south of the site and it is considered that given the flat nature of the site for sport and recreational uses, that the addition of landscaping would not be compatible in this instance.

The site is not known to have any ecological or historical interest and thus no further consideration of this matter is required. As such, the proposal does not adversely affect sites of ecological, geological or archaeological significance in accordance with Saved Local Plan Policy REC4 (g).

In response to the letter raised by the Leicestershire Constabulary Crime Reduction Officer, the site is enclosed within a secure fenced area and located behind the community centre, and therefore is not easily visible or accessible. In addition, the standard of doors and windows will be secured through a Building Regulations Application and as such is not a material planning consideration.

Conclusion

In conclusion, the principle of recreational or leisure uses on this existing recreational site is considered acceptable. By reason of the siting and design of the works, they are not considered to result in any significant material impacts upon the wider landscape, residential amenity, highway safety or ecological or historical importance. Accordingly, it is recommended that the scheme be approved, subject to the imposition of planning conditions.

RECOMMENDATION:- Permit subject to no significant material objections being received prior to the expiry of the consultation period on 9 June 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 the extensions are considered acceptable within this existing recreation site and do not give rise to any significant material impacts upon the wider landscape, residential amenity, highway safety or ecological or historical importance.

Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (2009): - Policies 10, 19, 21.

Hinckley and Bosworth Borough Council Local Plan (2001):- Policies REC1, REC4, BE1, T5.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall be carried out in complete accordance with the details: Existing and Proposed Plans and Elevations Drawing No. wa 151.01E received by the Local Planning Authority on 4 May 2011.
- 3 The materials and finishes to be used on the external elevations of the extensions, hereby permitted shall match those corresponding materials of the existing club house, unless otherwise agreed in writing with the Local Planning Authority.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Ebony Mattley Ext 5691

Item: 04
Reference: 11/00271/FUL
Applicant: Mr Roy Hartley
Location: 62 Castle Street Hinckley
Proposal: CHANGE OF USE FROM BUTCHERS TO RETAIL AND ASSEMBLY OF KITCHEN UNITS AND OFFICE, ERECTION OF OUTBUILDINGS AND CREATION OF FIRST FLOOR LIVING ACCOMMODATION
Target Date: 30 May 2011

Introduction:-

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

Application Proposal

Planning permission is sought for the change of use from a butchers shop to retail and assembly, for the sale of kitchen units and creation of first floor living accommodation and erection of external staircase. Permission is also sought for the erection of two extensions and conversion of outbuildings to create a reception area, display area and assembly of kitchen units, with office use above.

Members are advised that this application is read in conjunction with planning application ref: 11/00363/CON for Conservation Area Consent to demolish an existing garage to the rear of the site, fronting Stockwell Head.

The current use of the site is a butchers shop known as 'Richardsons' and outbuildings to the rear of the site served as cold rooms used in conjunction with the butchers shop. The site has been vacant since 2007.

The proposal seeks to retain the shop along Castle Street and create living accommodation for one flat above, accessed through the erection of an external spiral staircase. Through the passageway into Lilley's Yard a single storey mono pitch extension is proposed to create a reception area in lieu of existing roller shutter doors. The two storey building currently standing vacant is set to be converted to a display area with offices above. The existing flat roof cold store is intending to be constructed with a pitched roof and will be converted into an assembly unit. To the rear, a single storey pitched roof with an arched entrance facing Stockwell Head is proposed to be used as a kitchen assembly unit and loading area.

The unit would consist of a mix of A1, C3 and B1(a) and B1 (c) uses. The shop front would remain an A1 (Use Class) with residential C3 (Use Class) above and the proposed use of the outbuildings to the rear would fall within an A1 and B1 and B8 (Use Class); A1 for retail and display of kitchen units, B1(a) (Use Class) for offices and B1 (c) (Use Class) for the assembly of kitchen units.

It is intended to assemble, display and sell kitchen units, employing 4 full time members of staff. The hours of opening for the shop and display area are 9-6 Monday to Saturday and the hours of opening of the assembly units are 8-5 Monday to Friday and 8-12 on a Saturday.

Following concerns raised by officers, amended plans have been received showing a section depicting the surrounding neighbouring windows, the bricking up of a doorway, re-hanging of an existing doorway inwardly and obscure glazed windows to the first floor windows proposed to serve the office, and additional information setting out that 1-2 deliveries will be made on average, daily in 'transit' type vans. Re-consultation has been undertaken with surrounding neighbouring residents.

For the avoidance of doubt, the Noise Report is based on the findings, prior to the request for amended plans to show the re-hanging of a doorway inwardly; bricking up of an existing doorway and obscure glazed window units.

Following a request, the applicant has also provided additional information justifying the lack of parking on the site, and re-consultation has been undertaken with the Director of Environment and Transport (Highways).

For the avoidance of doubt permission was originally sought for the demolition of an existing garage; however the applicant has been informed that separate Conservation Area Consent will be required, and therefore the demolition does not form part of this application. An application for Conservation Area Consent (ref 11/00363/CON) has now been submitted for the demolition of the garage and is subject to a separate report.

No alterations are proposed to the shop front and separate consent will also be required for any future advertisements.

The Site and Surrounding Area

Adjacent to the shop front is a covered passageway that leads to Lilley's Yard which forms a footpath through to Stockwell Head. The site is located within Hinckley Town Centre, and within Hinckley Town Centre Conservation Area, as defined by the adopted Hinckley and Bosworth Local Plan.

Technical Document submitted with application

The Design and Access Statement emphasises that the use of the business is not industrial, as chipboard sheets are cut to size prior to the assembly and that hand tools and a circular saw will only be used intermittently for a maximum of 2 hours a day and therefore describes this as 'assembly' of kitchen units and not the 'manufacturing' of kitchen units..

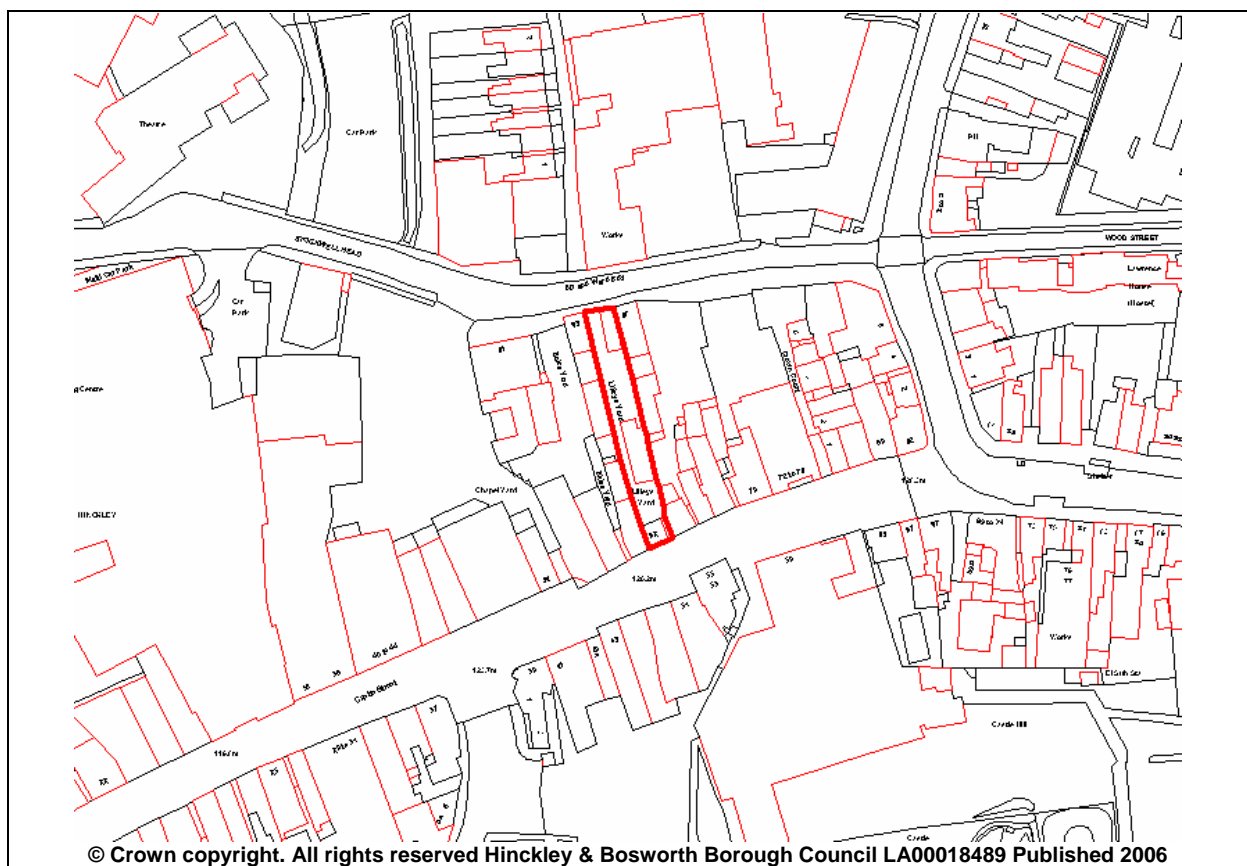
The Marketing Report states that the site has been marketed both on a leasehold retail and freehold basis. The site has been on the market since between March 2007 and November 2010, ranging from between £195,000 to £325,000. Despite the reductions in price this did not generate any further interest and no formal offers were made. Due to little interest the possibility of letting parts of the property separately was considered but this would have been difficult due to the size and lack of the toilet facilities within the shop at Castle Street.

The Noise Assessment includes details of noise surveys and external wall and room finishes and makes a number of recommendations.

The Protected Species Report concluded that the site had not been used by bats or birds, nor did seem the potential to do so, and that there are no other indications of any other protected species on site.

History:-

11/00363/CON	Demolition of garage	Pending	
94/00250/FUL	Installation of roller shutters	Approved	19.05.94
91/00486/4	Rear extension to shop	Approved	25.06.91
89/00416/4	Installation of satin silver anodised security shutters	Approved	23.05.89
86/00286/4	Extension to rear of shop premises	Approved	29.04.86
76/01016/4M	First floor extension to accommodate staff room and repair workshop	Approved	24.08.76



Consultations:-

No objections/comment from:-

- Directorate of Chief Executive, LCC (Ecology)
- Director of Environment and Transport (Rights of Way)
- Director of Environment and Transport (Highways)
- Head of Community Services (Land Drainage)
- Ramblers Association.

Head of Community Services (Pollution) states that the submitted noise report contains recommendations for the proposed building and these should be adhered to and would like to see confirmation that the works have been completed to these standards.

Six letters of objection have been received raising concerns on the following grounds:-

- a) Residential and commercial area, not manufacturing.
- b) going against the agreed Master plan for Hinckley Town Centre to secure retail and residential
- c) overlooking and loss of privacy; proximity to bedroom windows.
- d) loss of peace and quiet; nuisance and disturbance
- e) use of power drills; banging; high level noise; dusty; doors left open?
- f) no prior notice of this development
- g) works being carried out all hours of the day, night and weekends
- h) heavy duty delivery services; HGV's blocking the lane.
- i) flat too small
- j) entrance to the flat positioned close to kitchen window
- k) entrance for flat used for smokers.

Policy:-

National Policy 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. Policy EC2.1(d) seeks to make the most efficient and effective use of land, prioritising previously developed land which is suitable for re-use and reflects the different location requirements of businesses, such as the size of site required, site quality and access. EC10: Determining Planning Applications for Economic Development" which supports applications which secure sustainable economic growth

Planning Policy Statement 5 (PPS5): 'Planning and the Historic Environment' sets out how applications affecting heritage assets should be determined; it requires Local Planning Authorities to assess impacts on the historic environment.

Regional Policy

The Court of Appeal, in May 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS's proposal to abolish regional strategies. The Court confirmed that the Government's proposal to abolish regional strategies is a material planning consideration, but that is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

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:

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

Policy 1 seeks to secure the delivery of sustainable development.

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

Local Development Framework Core Strategy 2009

Spatial Objective 11: 'Built Environment and Townscape Character' states that the borough's distinctive built environment including Conservation Areas, Listed Buildings and historic industries should be safeguarded, enhanced and where necessary regenerated.

Policy 1: 'Development in Hinckley' seeks to ensure that there is a range of employment opportunities within Hinckley and requires new development to respect the character and appearance of the Hinckley Conservation Areas by incorporating locally distinctive features of the Conservation Area into the development.

Hinckley and Bosworth Local Plan 2001

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

Policy Retail 2: 'Primary Shopping Frontages, Hinckley Town Centre' states that development or change of use of ground floors will be restricted to shops (Use Class A1) and the retention of a continuous window display frontage is considered important to the continued success of the pedestrianised area. Saved Policy Retail 2 also states that favourable consideration will be given to the development of offices to the rear of shops in Castle Street, and areas fronting on to Stockwell Head, provided satisfactory arrangements are retained for access, servicing and parking in relation to properties fronting onto Castle Street.

Policy Retail 4: 'Shopping Areas, Hinckley Town Centre' supports A1, A2, A3 and D2 Uses providing that the development does not have a seriously detrimental effect on the amenities enjoyed by the occupiers of adjoining residential property; generate additional traffic which would be detrimental in terms of highway safety or capacity; be detrimental to the visual amenities of the area; result in an under provision of off street parking, access and servicing facilities and removal an existing shop frontage.

Policy Retail 12: 'Use of Upper Floors' supports the use of residential accommodation above shops within the town centre, providing this does not have an adverse impact upon neighbouring residential properties or involve the intensified use or creation of a new access.

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; is not adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; does not adversely affect the occupiers of neighbouring properties.

Policy BE7: 'Development 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.

Other material policy guidance

The Hinckley Town Centre Area Action Plan (AAP) was adopted through Full Council on 21st March 2011, as such, it currently forms a formal development plan document for Hinckley Town Centre as part of the Local Development Framework. The application site falls within the Hinckley Town Centre Area Action Plan boundary.

Spatial Objective 3 of the AAP seeks to increase and improve the range of retail provision in the town centre to support Hinckley's role as a sub regional centre.

Spatial Objective 4 of the AAP seeks to enhance Hinckley Town Centre's image to developers, retailers, residents and visitors by ensuring high quality, safe and well designed, environmentally friendly development in the town centre.

Spatial Objective 8 of the APP seeks to retain and enhance employment opportunities in the Hinckley Town Centre Area Action Plan boundary.

Policy 13: 'Hinckley Town Centre Shopping Areas' states that ground floor development along Primary Shopping Frontages will be restricted primarily to A1 uses to protect the vitality and retail integrity of town centre's retail core, and A1-5 and D2 uses will be acceptable in the rest of the town centre.

Appraisal:-

The main considerations in the determination of this application relate to the principle of development, impact on residential amenity, design and impact upon the character and appearance of the Conservation Area, highway considerations and other issues.

Principle of Development

The site falls within the settlement boundary of Hinckley and within the Town Centre Boundary. The Town Centre Boundary within the Hinckley Town Centre Area Action Plan (AAP) also reflects that of the Local Plan, and as such the sites fall within the Town Centre on both accounts.

The site is located within the settlement boundary of Hinckley where there is a presumption in favour of development subject to all other planning matters being appropriately addressed. For the reasons discussed later in this report it is considered that the development is in compliance with development plan policy.

The APP recognises that there is a need for a range of employment opportunities in the town centre and a particular need for significantly increased office provision. The AAP also

confirms that Hinckley lacks suitable and available premises to accommodate interested retailers, as revealed with the Retail Capacity Study (2007).

This scheme has a number of distinct physical elements; the retention and use of the shop front to Castle Street, the first floor accommodation above and the extensions and use of the buildings to the rear.

Shop Unit on Castle Street

The shop unit fronting Castle Street is afforded designation though Saved Local Plan Policy Retail 2. It is considered that the retention of the shop and continuous window display on Castle Street, ensures that A1 uses remain within the primary shopping frontages of Hinckley Town Centre. As such, the proposal would be in accordance with Policy Retail 2 of the adopted Local Plan and Policy 13 of the AAP.

First Floor accommodation

The application also proposes first floor accommodation above the shop unit. Saved Local Policy Retail 12 supports the use of residential accommodation above shops, providing this does not have an adverse impact upon neighbouring residential properties or involve the intensified use or creation of a new access. As such, there is no in principle objection to the use of the site above the shop for residential accommodation, providing that there are no other material impacts identified.

Use of the Buildings to the Rear

The outbuildings to the rear fall within an area designated as Policy Retail 4 in the adopted Local Plan. Saved Policy Retail 4 of the adopted Local Plan supports Use Classes A1, A2, A3 and D2 on ground floors, subject to certain criteria. In addition, Policy 13 of the AAP also states that A1-A5 and D2 (Use Classes) will be acceptable in the rest of the town centre. Saved Policy Retail 4 also states that within this area, proposals for shopping, financial and professional uses, food and drinks and assembly and leisure uses will be considered favourably, although particular regard will be given to the effect of assembly and leisure proposals (Use Class D2) which can create noise and disturbance on adjoining residential areas. For the avoidance of doubt, whilst the applicant has provided accompanying documentation stating that the use of the site is for kitchen unit assembly and not manufacturing, it is considered that the use of the proposed use would fall under Use Class B1.

In the absence of specific policy support, evidence is required to support any proposed change. The application has been accompanied by a marketing assessment to demonstrate that the site has been adequately marketed for four years without success. On this basis and to ensure that the town centre remains attractive and inviting, alternative uses should be considered. Providing that there are no significant material impacts identified (particularly upon residential amenity) within this location the use would be considered acceptable in the interests of strengthening the viability of the site, which consequently would contribute to the local economy in accordance with the aspirations of the AAP and overarching intentions of PPS4.

Saved Policy Retail 2 also states that favourable consideration will be given to the development of offices to the rear of shops in Castle Street, and areas fronting on to Stockwell Head, provided satisfactory arrangements are retained for access, servicing and parking in relation to properties fronting onto Castle Street. As such, there are considered no in-principle objections to the use of the offices to the rear of the site, subject to access, servicing and parking being considered acceptable. It is also the intention through this policy

to ensure that there are no rear shopping frontages, or that shopping frontages are not formed onto Stockwell Head. It is considered that the erection of a single storey extension to create a reception area, leading into a display area, would be sited to the front of the site, accessed from Castle Street and as such a shopping frontage will not be formed onto Stockwell head and the main shop unit will be retained within 62 Castle Street.

In summary, the application site affords specific retail designation and as such there is identified policy support for the retail shop, office use and residential use, within both the adopted Local Plan and Hinckley Town Centre Area Action Plan. Whilst the proposed B1 (Use Class) kitchen assembly use does not afford specific policy support, (Use Classes A1-A5 and D2 only) it is considered that subject to satisfying the potential impacts as appraised below in this report, the wider benefits that this development could bring to the local economy is considered consistent with the intentions of the Hinckley Town Centre Area Action plan and the overarching intentions of national planning policy PPS4.

Impact upon Residential Amenity

Whilst Castle Street is predominantly occupied with commercial uses, the rear of the site through Lilley's yard is interspersed with both commercial and residential uses.

There is first floor residential accommodation (5 flats) located to the west of the site, along Lilley's Yard which have first floor habitable windows located within their western elevations and there is also a balcony which would be directly located over the proposed assembly unit.

Noise from Assembly

As previously stated the outbuildings to the rear fall within an area designated as Policy Retail 4 in the adopted Local Plan which supports alternative non-retail uses, providing there are no significant impacts upon residential amenity.

Objections have predominantly been raised on the loss of peace and quiet and the proposed manufacturing in this location not being suitable, as it would give rise to high level noise and banging.

The accompanying documentation states that the proposal involves the intermittent use of a circular saw, purposely proposed within the new assembly unit which is to provide sound insulation to the roof and ceilings. The Noise Impact Assessment concludes that in a worst case scenario locating the circular saw in the new structure with built-in noise attenuation measures means this proposal will not adversely affect surrounding neighbours. The Assessment recommends that the ceiling / roof construction includes either slate or tiles on the pitched roof and that the ceiling consists of 2 layers of 12.5mm Fireline plasterboard (or similar). It is also recommended that the external wall is of similar construction to one of the three options described in Section 7 of the Assessment.

The Noise Impact Assessment has been considered by the Head of Community Services (Pollution) whom has agreed with the recommendations set out for the proposed new building, and would like to see that the recommendations are adhered to. As such, it is considered necessary to attach appropriate conditions to ensure these recommendations.

Following concerns raised by officers the existing door serving the cold store is to be bricked up to ensure that there are minimal openings to mitigate against noise being omitted from the site and this has been reflected within the submission of an amended plan. The door to be bricked up is intending to operate as an assembly area and as such it is considered that the level of noise as a result of this amendment is likely to be reduced.

In respect of the opening of the door and loading bay, it is considered that further details are required regarding the proposed loading doors through the imposition of a planning condition in the interests of mitigating against any potential noise and odour upon nearby residential accommodation. The accompanying Noise Impact Assessment also recommends that the equipment should never be used while the loading bay doors are open and as such a condition is suggested to ensure this.

Due to the assembly of the products, the proposed change of use is likely to increase the level of noise over and above that of the previous use of the cold stores. However, on the basis that the development can be conditioned to control the recommendations submitted within the Noise Impact Assessment, it is not considered that the proposed noise would be detrimental to the occupiers of surrounding residential flats.

General Disturbance (Comings and Goings)

It is also necessary to consider the associated comings and goings likely to be experienced as a result of this use, in line with the hours of operation proposed.

It is considered that there is a level of background noise in this location with the retail area from Castle Street and a level of activity from the road and uses within Stockwell Head, however this noise is likely to quieten in the evening in line with the normal working period. The hours of use are considered acceptable for this setting and will be controlled by the imposition of a planning condition. It is acknowledged that there is a residential element proposed which will involve comings and goings, however the net gain of one flat is unlikely to lead to a significant increase in the level of disturbance to the area over and above that exerted by the other residential accommodation within the area.

A letter of objection has also been raised regarding the nature of deliveries and use of HGV vehicles. The applicant has provided additional information which states that the number of deliveries will be one or two per day on average and the number of goods out movements will be one per day and that all deliveries in and goods out will be in transit sized van. This is considered acceptable given that Stockwell head is characterised by other uses which require deliveries, as such it is not considered that the level of deliveries would be over and above that of the previous use or significantly over and above that of surrounding commercial premises.

Overshadowing, Overlooking and Overbearing impacts

Neighbouring letters of objection have also raised concerns regarding overlooking, loss of privacy and proximity to bedroom windows.

The majority of the development seeks to retain the existing building and the proposed single storey rear extension to create the kitchen assembly unit is set to measure 3 metres to the eaves and 4.6 metres to the ridge. There is an existing neighbouring balcony which is positioned 3.6 metres from ground level and is positioned approximately 4.1 metres away from the proposed extension. By virtue of the scale of the single storey extension, positioned lower than the existing balcony and habitable windows it is not considered that there would be any significant overshadowing or overbearing impacts.

In addition, amended plans have now been received which show that all first floor side windows serving the proposed office will be fitted with obscure glass, to ensure that there is no overlooking or looking directly into adjacent habitable windows. A condition is suggested to secure this.

Other Impacts upon Residential Amenity

In respect of the proposed living accommodation (flat), a new window and new roof over the door are proposed along with an external staircase, which are not considered to give rise to any significant impacts due to the siting. In response to a letter of objection, the use of the spiral staircase for entering and leaving the flat would not give rise to any direct overlooking, given the nature of the staircase and the minimal time spent using it. In addition, the fact that the entrance may be used for smokers by any potential future occupiers is not a material planning consideration. It is, however it is considered necessary to attach a condition to ensure that the full external details of this staircase are first submitted to and approved in writing by the Local Planning Authority.

In addition to the developments appraised above, it is not considered that there will be any impacts as a result of the retention of the shop unit in Castle Street, over and above those exerted from previous A1 (Use Class).

Furthermore, given the minor modifications to create a pitched roof, on the current flat roof this is not considered to give rise to any significant impacts.

In response to other objections raised not addressed above, it is not common practice or a requirement to consult surrounding residential premises, until such a time as a formal planning application is first submitted to the Local Planning Authority. For the avoidance of doubt, the neighbouring resident whom has raised this concern has been formally consulted on this application by letter and a site notice has also been displayed on site.

In summary, it is considered that the nature and hours of assembly, number of employees, and frequency of deliveries have all been carefully considered and are not considered to give rise to any significant material impacts upon residential amenity. The proposed extensions and alterations are considered minimal and are not considered detrimental to the amenities of surrounding residential accommodation. As such, the scheme is considered to be in accordance with Saved Policy BE1 and Saved Retail Policies 4 and 12 of the adopted Local Plan.

Design and Impact Upon the Conservation Area

The proposal is located within Hinckley Town Centre Conservation Area. It is a statutory requirement that any new development should at least preserve the character of the Conservation Area.

It is considered by virtue of the small scale and design of the proposed extensions to create a reception area and assembly unit that scheme would at least preserve the character of the Hinckley Town Centre Conservation Area.

The scheme proposes minimal alterations to the exterior of the other buildings and through the imposition of a planning condition to secure acceptable samples of facing materials, the scheme will be of a satisfactory external appearance for this Conservation Area setting. In addition further details of the external appearance of the proposed staircase will also be required and a condition is suggested to secure this. The rare glazed brick interior is set to be retained.

In summary, the scheme is considered to preserve the Conservation Area in accordance with Saved Policy BE7 of the adopted Local Plan.

Highway Considerations

The garage, which has not been used for vehicular parking is intending to be demolished under Conservation Area Consent application (ref: 11/00363/CON) . The scheme does not propose any car parking provision, with the exception of the service bay area within the site. Following concerns raised by officers, the applicant has provided further justification for this, stating that there is no official parking provision to replace but that this is a town centre location and there are other public parking facilities in the vicinity. In addition, it also states that a small development such as this would not compromise the town centre parking provision. Re-consultation has been undertaken with the Director of Environment and Transport (Highways) whom has confirmed that whilst replacement parking would be preferable, it is not considered that a reason for refusal could be substantiated given this town centre location and as such has no objection to the scheme.

In respect of the proposed first floor accommodation, access is achieved by an external circular staircase and new door, in the same manner that an existing first floor flat is accessed. Saved Local Policy Retail 12 acknowledges that the occupiers of such properties are usually young single persons who have limited requirements for parking and amenity space. There are other examples of first floor accommodation above shop units within Castle Street, and there are not clear designated parking for these residential units. It is considered that by virtue of the size of the unit that this would only be suitable for a single person, and given the sites location within the town centre that the lack of parking would be acceptable in this instance.

The proposed siting of the reception area has been designed to ensure that it does not encroach upon the designated footpath running through Lilley's Yard. The Director of Environment and Transport (Rights of Way) has no objection to the scheme. Following the submission of amended plans the two existing ground floor double doors within the western elevation have been altered so that one is to be bricked up and the other now opens inwardly to avoid any future issues with pedestrian's rights of way.

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

Other Matters

Ecology

The accompanying ecology report does not identify the presence of any protected species on the site. The Directorate of Chief Executive, (Ecology) accepts the report submitted with the application and concludes 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.

Financial Contributions

Due to the residential element of the proposed flat, the development 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. The request for any developer must be considered alongside the guidance contained within Circular 05/05 and more recently in the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

Given that the flat is one bed roomed, it is not considered that the size of the unit would appeal to families and as such it is not considered that the proposal is related in scale and kind to the development proposed. Therefore the development would not be able to satisfy the requirements of planning obligations and as such the scheme would not be CIL compliant.

Conclusion

In principle, the scheme affords policy support for many of the proposed uses. The proposed assembly of kitchen units does not afford specific policy support, although it is not considered to give rise to any significant material impacts, and therefore there is no objection to the scheme which is proposed to utilise a vacant site and lead to the vitality and vibrancy of Hinckley Town Centre. The scheme does not give rise to any significant material harm to neighbouring dwellings, highway safety or protected species and is considered to preserve the Conservation Area. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it is considered largely characteristic of the surrounding area and would not be detrimental residential amenity, highway safety protected species and preserves the character and appearance of the Conservation Area.

Hinckley & Bosworth Local Plan (2001):- Policies Retail 2, Retail 4, Retail 12, BE1, BE7, T5.

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (2009):- Policy 1, Area Action Plan (2011) Policy 13

- 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 details: OS Site Plan (1:1250) received by the Local Planning Authority on 4 April 2011 and amended details: Drawing No B10/13/P01F 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 elevations of the proposed assembly unit and reception area shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved materials.
- 4 No development shall commence until full details including materials and finishes of the proposed spiral staircase are first submitted to and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with the approved details.
- 5 No development shall commence until full details of the window and door styles, reveals, cills, header treatments and materials of construction are first submitted to

and approved in writing by the Local Planning Authority, the works shall then be implemented in accordance with the approved details.

- 6 No development shall commence until full details of the eaves and verge treatment, guttering and down pipe (including materials and method of fixing) are first submitted to and approved in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved details.
- 7 The windows serving the proposed office at first floor level in the west elevation shall be fitted with obscure glass and shall be retained this way thereafter.
- 8 No development shall commence until full details of the proposed folding timber doors are first submitted to and approved in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved details.
- 9 The loading bay doors shall be kept closed during the operation of any powertools.
- 10 No development shall commence until a scheme of noise attenuation is first submitted to and agreed in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved details.
- 11 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 and the works shall be implemented in accordance with the approved details.
- 12 No part of the development, other than that proposed in the approved plan Drawing No B10/13/P01F, received by the Local Planning Authority on 9 May 2011, shall be used for the assembly of kitchen units.
- 13 No use of the assembly units, hereby approved shall be carried out other than between 8 am to 5 pm Monday to Friday and 8 am to 12 noon Saturdays and at no time on Sundays or Public Holidays.
- 14 No use of the reception area, display area and offices, hereby approved shall be carried out other than between 9 am to 6 pm Monday to Saturday and at no time on Sundays or Public Holidays.

Reasons:-

- 1 To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3-6 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 and BE8 of the adopted Hinckley & Bosworth Local Plan.
- 7 To ensure that the development is not detrimental to the privacy and amenity of the neighbouring property, to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.

- 8 In the interests of protection of amenity from noise and odour of nearby residential accommodation to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 9 The premises are close to residential dwellings and a limit on the use is needed to prevent a nuisance or annoyance to nearby residents accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 10 In the interests of protection of amenity from noise of nearby residential accommodation to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 11 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 & Bosworth Local Plan.
- 12 The premises are close to residential dwellings and a limit on the use is needed to prevent a nuisance or annoyance to nearby residents accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 13&14 The premises are close to residential dwellings and a limit on the hours of use is needed to prevent a nuisance or annoyance to nearby residents accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 Should permission be granted, you are reminded to comply with the conditions of Conservation Area Consent: 11/00363/CON.
- 6 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.

Contact Officer:- Ebony Mattley Ext 5691

Item: 05
Reference: 11/00363/CON
Applicant: Mr Roy Hartley
Location: 67 Stockwell Head Hinckley
Proposal: DEMOLITION OF GARAGE
Target Date: 4 July 2011

Introduction:-

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

Application Proposal

This application seeks permission for Conservation Area Consent to demolish a single storey garage.

Members are advised that this application is read in conjunction with planning application (ref: 11/00271/FUL) for 62 Castle Street, Hinckley which proposes the change of use from a butchers shop to retail and assembly of kitchen units and creation of first floor living accommodation, erection of two extensions and conversion of outbuildings to create a reception area, display area and assembly of kitchen units, with office use above.

As such the garage is proposed to be demolished to allow for an entrance to the existing buildings and proposed extensions within Lilley’s Yard.

The Site and Surrounding Area

The site is adjoined to the east by No. 67 ‘Hinckley Tile Services’. Adjacent to the garage to the west is Lilley’s Yard which forms a footpath through to Castle Street.

The site is located within Hinckley Town Centre, and within Hinckley Town Centre Conservation Area, as defined by the adopted Hinckley and Bosworth Local Plan.

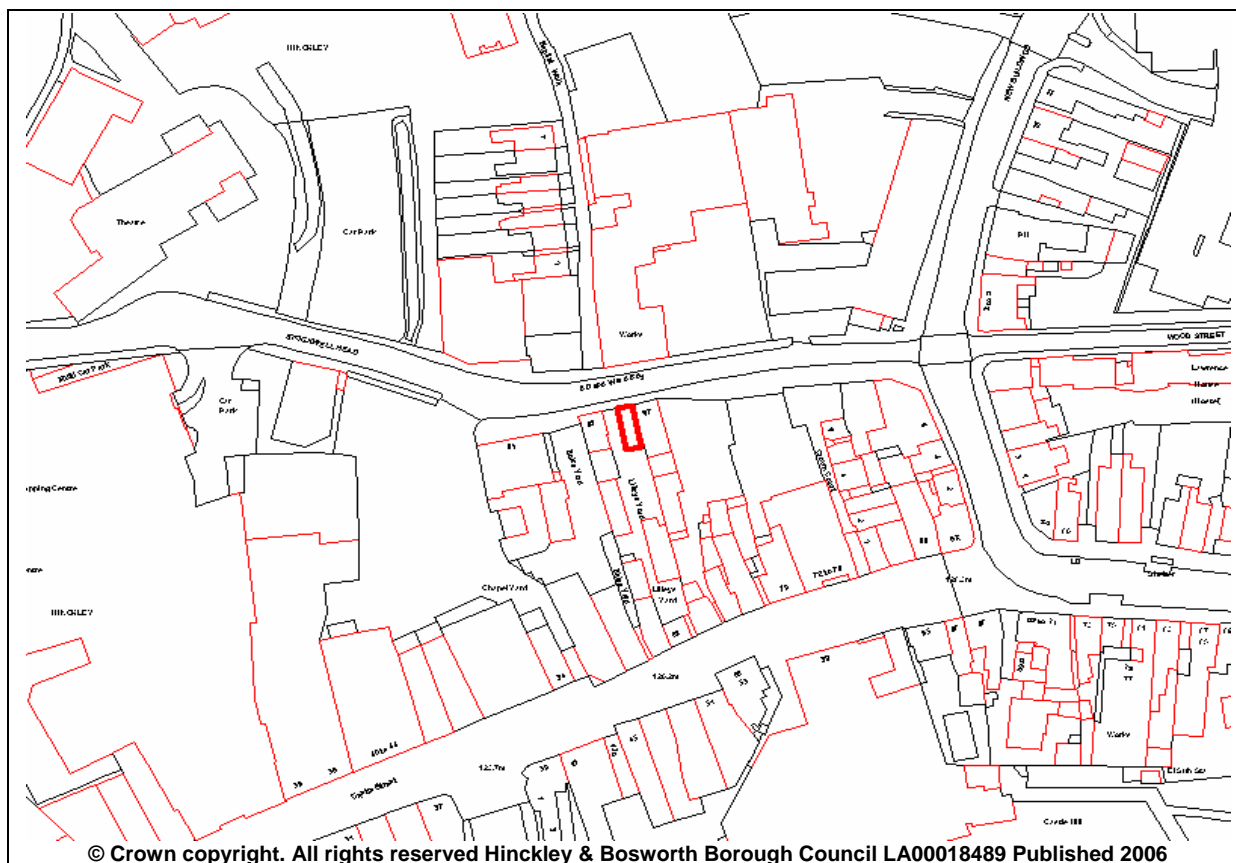
Technical Document submitted with application

The application is accompanied by a planning and Heritage Statement which states that the building is a lean-to, mid twentieth century garage with a corrugated sheet roof, a mix match of bricks which overall has no merit.

History:-

11/00271/FUL	Change of use from butchers to retail and assembly of kitchen units, demolition of garage, erection of outbuilding and creation of first floor accommodation	Pending	
94/00250/FUL	Installation of roller shutters	Approved	19.05.94

91/00486/4	Rear extension to shop	Approved	25.06.91
89/00416/4	Installation of satin silver anodises security shutters	Approved	23.05.89
86/00286/4	Extension to rear of shop premises	Approved	29.04.86
76/01016/4M	First floor extension to accommodate staff room and repair workshop	Approved	24.08.76



Consultations:-

No objection/comments have been received from Ramblers Association.

Director of Environment and Transport (Rights of Way) states that the applicant will be responsible for ensuring that the right of way (footpath V114) remains accessible at all times and that pedestrians are not exposed to any potential danger associated with the works while using it.

One letter of objection has been received raising concerns on the following grounds:-

- a) Amount of noise whilst work is carried out; living on a building site; residential and business properties do not mix.

At the time of writing the report comments have not been received from Historic Buildings Panel.

The consultation period remains open at the time of writing this report and closes on 13 June 2011. Any further consultation response received before the closing date will be reported and appraised as a late item.

Policy:-

National Policy 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 5 (PPS5): 'Planning and the Historic Environment' sets out how applications affecting heritage assets should be determined; it requires Local Planning Authorities to assess impacts on the historic environment.

Regional Policy

The Court of Appeal, in May 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS's proposal to abolish regional strategies. The Court confirmed that the Government's proposal to abolish regional strategies is a material planning consideration, but that is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

East Midlands Regional Plan 2009

No relevant policies.

Local Development Framework Core Strategy 2009

Spatial Objective 11: 'Built Environment and Townscape Character' states that the borough's distinctive built environment including Conservation Areas, Listed Buildings and historic industries should be safeguarded, enhanced and where necessary regenerated.

Policy 1: 'Development in Hinckley' requires new development to respect the character and appearance of the Hinckley Conservation Areas by incorporating locally distinctive features of the Conservation Area into the development.

Hinckley and Bosworth Local Plan 2001

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

Policy BE8: 'Demolition in Conservation Area' 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.

Other material policy guidance

The Hinckley Town Centre Area Action Plan (AAP) was adopted through Full Council on 21st March 2011, as such, it currently forms a formal development plan document for Hinckley Town Centre as part of the Local Development Framework. The application site falls within the Hinckley Town Centre Area Action Plan boundary.

No specific policies relating to the Hinckley Town Centre Conservation Area.

Appraisal:-

The main considerations in the determination of this application are the impact of the demolition of the garage upon the character and appearance of the Conservation Area.

Impact upon the Character and Appearance of the Conservation Area

The proposed development involves the demolition of a single storey garage. The garage building has undergone a number of alterations over the years leading to a structure with a number of different brick types, a corrugated sheet roof, and the infill of a door with a rendered panel. Whilst the garage provides development across the road frontage it is not considered that the garage makes a significant positive contribution to the streetscene and character and appearance of the Hinckley Town Centre Conservation Area to deem it worthy of retention. It is considered that the existing garage detracts from the character and appearance of the Conservation Area, and as such there is no in principle objection to its removal.

Saved Policy BE8 requires redevelopment proposals to be in place where structures/buildings are to be demolished within Conservation Areas. It is noted that there is development proposed being assessed under planning application ref: 11/00271/FUL, however there is no such replacement scheme for the garage.

Instead the garage is proposed to be demolished to allow an access to serve the loading area for the kitchen assembly unit, as proposed under application ref: 11/00271/FUL, which would be the vehicular access for the development as a whole. As such it is considered that the loss of the garage across the road frontage is necessary for the requirements of the proposed use and thus to bring the development forward. It is not considered necessary to enclose this space, in the interests of highway safety, given that visibility will be required for vehicular manoeuvres.

It is considered that the development put forwarded under planning application 11/00271/FUL proposes development upon the wider area of the site which is considered to at least preserve the character of the Hinckley Town Centre Conservation Area. As such the replacement is considered in accordance with Saved Local Plan Policy BE8 of the adopted Local Plan.

Due to the siting of the development within the Conservation Area, it is considered necessary to prevent the demolition until immediately prior to redevelopment, to ensure that the clearance following a demolition does not have a negative impact on the Conservation Area. As such it is considered necessary to impose a planning condition to ensure this.

In response to the neighbouring letter of objection, noise during construction is not a material planning consideration. The other concerns directly relate to and have been appraised within application 11/00271/FUL.

Conclusion

In conclusion, the proposed demolition involves the removal of a garage which is considered detrimental to the character and appearance of the Hinckley Town Centre Conservation Area. There is a comprehensive replacement scheme currently under consideration for the wider site which is considered to preserve 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 the imposition of an appropriate condition to ensure that the cleared site does not blight the Conservation Area for a long period of time.

Accordingly it is recommended that Conservation Area Consent is granted, subject to the imposition of planning conditions.

RECOMMENDATION:- Subject to no material objections being received prior to the expiry of the consultation period on 13 June 2011, to grant Conservation Area Consent for the demolition, subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it is considered that the demolition of the garage would not be detrimental to the character and appearance of the Conservation Area.

Hinckley & Bosworth Local Plan (2001):- BE8

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

- 1 The demolition hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The demolition hereby permitted shall not be carried out otherwise than in complete accordance with the details: OS Site Plan (1:1250) and Drawing No B10/13/E01C received by the Local Planning Authority on 9 May 2011.
- 3 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.

Reasons:-

- 1 To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act, 1990, as amended by 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 protect the character and appearance of the Conservation Area in the interests of visual amenity to accord with Policy BE8 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 Should permission be granted, you are reminded to comply with the conditions of application reference: 11/00271/FUL.
- 6 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.

Contact Officer:- Ebony Mattley Ext 5691

Item: 06

Reference: 11/00287/FUL

Applicant: The Crown Estate

Location: Shackerstone Barns Wharf Farm Station Road Shackerstone

Proposal: ERECTION OF AGRICULTURAL BUILDING

Target Date: 22 June 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it a development where the floor space is greater than 500 square metres.

Application Proposal

Full planning permission is sought for the erection of a new agricultural building at Wharf Farm.

The building would measure approximately 20 metres in width by 30 metres in length, and 6 metres to the eaves and 9 metre to the ridge, covering a floor area of 600 square metres. The steel portal framed building is intended to be constructed in pre-cast concrete units up to

3 metres in height with green plastic covered steel sheet cladding above, with fibre cement roof sheets with one elevation incorporating five roller shutter doors.

The building will be used for the storage of agricultural implements, grain storage, the storage of animal foodstuffs and for temporary housing and handling of sheep.

The application has arisen following an existing agricultural building damaged in a fire in October 2010 and has subsequently been removed. The previous burnt down agricultural building measured 500 square metres.

The Site and Surrounding Area

The new building will be sited in the same location as the building that it is intending to replace, to the west of the site and there are a number of existing agricultural buildings at the farmyard.

Wharf Farm extends to approximately 492.61 Acres (199.36 Ha) and is owned by the Crown Estate, and used as an arable and sheep farm.

The access to the farm is from the village of Shackerstone, Nuneaton, over a canal and under a redundant railway line. Wharf Farm is located in a remote location to the east of the village in the open countryside and falls outside development limits, 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 which states that the appearance of the new structure is similar to the agricultural building that has been damaged and removed. The materials that have been chosen are of a more modern design and have been particularly selected to have a sympathetic appearance against the surrounding countryside. The statement concludes that the application has been carefully considered and takes into account the scale, siting and particularly the design of the agricultural building so that it is functional for its purpose, whilst having great consideration to the immediate surroundings and overall impact of the development.

History:-

97/00107/FUL	Erection of a dwelling	Withdrawn	09.05.97
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Consultations:-

No comments have been received from Ramblers Association.

No objection has been received from:-

Director of Environment and Transport (Rights of Way)
Head of Community Services (Land Drainage)
Shackerstone Parish Council.

Site notice displayed.

Policy:-

Central Government Guidance

Planning Policy Statement 7 (PPS7) 'Sustainable Development in Rural Areas' seeks to ensure that development in the countryside is sustainable, and that new building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled.

The Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all. It goes on to say that all development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.

More specifically to farming, PPS7 states that Planning Authorities should be supportive of well-conceived farm diversification schemes for business purposes that contribute to sustainable development objectives and help to sustain the agricultural enterprise, and are consistent in their scale with their rural location. This applies equally to farm diversification schemes around the fringes or urban areas. It also states that where relevant, Local Authorities should encourage the re-use or replacement of existing buildings where feasible.

Regional Policy

The Court of Appeal, in May 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS's proposal to abolish regional strategies. The Court confirmed that the Government's proposal to abolish regional strategies is a material planning consideration, but that is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

East Midlands Regional Plan 2009

No relevant policies.

Local Development Framework Core Strategy 2009

Policy 13: 'Rural Hamlets' defines Shackerstone as a 'Rural Hamlet' which requires development to be of the highest environmental standards.

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, materials and architectural features; avoids the loss of open spaces, important gaps in development and features which contribute to the quality of the local environment; has regard to the safety and security of individuals and property; incorporates landscaping to a high standard where this would add to the quality of the design and siting; ensures adequate highway visibility for road users and adequate off street parking and manoeuvring facilities; is not adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; does not adversely affect the occupiers of neighbouring properties.

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

Supplementary Planning Guidance / Documents

Design of Farm Buildings Supplementary Planning Guidance (SPG) (2004) states that the position of a new farm building or structure is usually dependent 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.

Other material policy guidance

None relevant.

Appraisal:-

The main considerations in the determination of this application relate to the principle of development, impact on the countryside, scale and design, impact on residential amenity, highway considerations and drainage.

Principle of Development

Both PPS7 and Policy NE5 are generally supportive of agricultural development in the countryside providing that it does not result in any material harm to the existing character of the landscape. In addition, PPS7 supports development that delivers sustainable farming enterprises and it is considered that the building will strengthen the viability of the agricultural holding and consequently contribute to the rural economy.

In summary, there is no principle objection to the erection of an agricultural building on this agricultural land, subject to all other matters being adequately addressed.

Impact on the Countryside

The siting of any new building in the countryside is important in view of the visual impact it can have on the landscape. Wherever possible new buildings should be located close to existing buildings or landscape features.

The farm building is set to be positioned on the same footprint of the previous farm building which burnt down. This will be positioned to the west of existing farm buildings which are currently on site. It is considered that the new farm building has been sited in close proximity to the existing buildings on site.

In terms of wider views, Shackerstone Barns are located in an elevated position in comparison to the surrounding countryside and it is considered that the new building would be visible from the surrounding countryside. However, it is considered that the existing farm buildings would screen the development from the east of the site and there are hedgerows and trees within the wider area which provide some screening ensuring that the building does not dominate the views from the surrounding countryside. In addition, it is not considered that this new agricultural barn would create any significantly detrimental views, over and above that of the existing buildings on site and the previous barn which burnt down.

In summary, it is considered that the new agricultural building does not significantly impact upon the appearance and amenity of the surrounding countryside.

Scale and Design

The Council's SPG on Design of Farm Buildings recognises that on the whole, modern farm buildings tend to be larger than their traditional counter-parts due to the introduction of new agricultural practices and machinery resulting in higher, larger span buildings. The accompanying Design and Access Statement echoes this and states that due to modern agricultural practices and ever increasing size of agricultural equipment, this building has been designed to accommodate the larger farming machinery as well as provide an equal facility to that provided by the previous farm building.

This farm building is 100 square metres, larger than that which it replaces, however it is considered that this is required in the interests of storing and maintaining agricultural equipment and also would not appear out of keeping in comparison to the surrounding farm buildings which currently exist on site.

The design and appearance of the farm building uses proportions and finishes which are considered common in the construction of modern farm buildings in agricultural settings. The walls are divided into two materials of concrete blocks to the lower portion and plastic covered steel sheet cladding to the upper portion and the roof will consist of cement roof sheets. The materials are also common to the existing agricultural buildings on site.

In summary, by reason of scale and design the farm building is considered in keeping with the character and appearance of a farm setting.

Impact upon Residential Amenity

The site is located within a remote location and there are no residential dwellings within the surrounding area and as such there are none affected as a result of this proposal.

Highways Considerations

There are no proposed changes to the access and no additional traffic would be created over and above that of the existing.

Drainage

There are no proposed changes to the drainage; surface water will drain into existing soakaways and there is no provision or need for foul water drainage.

Conclusion

In conclusion, it is considered that the principle of an agricultural farm building in this location is considered acceptable in line with NE5 and PPS7. Whilst the proposed building is set to increase by 100 square metres in comparison to the previous agricultural building it is set to replace, it is sited on the existing footprint in close proximity to existing farm buildings and is not considered to encroach upon the countryside or be detrimental to the character and appearance of this countryside setting. The scale, materials and finishes are in accordance with the principles of designing a new farm building as stated in the Design on Farm Buildings SPG.

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:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as the principle and design of the farm building is considered acceptable and there are no material impacts on either the character of the countryside, residential amenity, highway safety or flooding.

Hinckley & Bosworth Local Plan (2001):- Policies BE1, NE5 and Design of Farm Buildings SPG.

Hinckley & Bosworth Borough Council Local Development Framework: Core Strategy (2009):- Policy 13.

- 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 details: Location Plan PEBN 40431/04 and Proposed Plans and Elevations PEBN 40431 01 Rev A received by the Local Planning Authority on 27 April 2011.
- 3 The materials used in the construction of agricultural building hereby approved shall be strictly in accordance with the details submitted in the application form, unless otherwise agreed in writing by the Local Planning Authority.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 and 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).

Contact Officer:- Ebony Mattley Ext 5691

Item: 07

Reference: 11/00290/FUL

Applicant: Mr Richard Cobley

Location: Snowdene Farm Main Street Botcheston

Proposal: ERECTION OF AN AGRICULTURAL BUILDING

Target Date: 11 July 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it is an agricultural building on a parcel of land less than 10 hectares.

Application Proposal

This application seeks full planning permission for the erection of a new agricultural building on land at Snowdene Farm, Botcheston. The building will have a rectangular footprint measuring 18.3 metres x 13.73 metres and a pitched roof with a ridge height of 6.4 metres. At either end of the building will be a large opening measuring 4.8 metres x 6.2 metres. The building is to be constructed from corrugated steel and finished in a Juniper Green colour.

The building is required to store farm machinery in connection with the applicants hay and straw making business. Further justification has been requested in respect of the business. The applicant has provided verbal evidence in respect of his business, which he intends to follow up in writing. He has confirmed that he owns the site which has an area of 2 hectares, on which he stores agricultural machinery and hay and straw. In addition he rents 20 acres of land immediately adjacent and rents a further 63 acres across the borough. In addition to hay and straw production on his own land, he also farms and maintains land for other farmers. He has stated that he owns the following farm machinery:- 2 x bailers, a flailer, a bale wrapper, a Massey Ferguson and 2 x Leyland Tractors. The applicant has been operating his current business in excess of 5 years.

The Site and Surrounding Area

The application site comprises an area of 2 hectares and is roughly 'L' shaped and is known as 'Snowdene Farm'. The farm occupies the land to the rear of residential properties on Main Street Botcheston. The site is accessed from Main Street. The land slopes in a southern direction away from the road. Agricultural land is adjacent to the site on each elevation. Mature vegetation and native hedgerows bound the site. There are a number of buildings and sheds on site and large areas of gravelled hard standing. There are also 4 large ponds on site which were previously used for the applicants fish farming business.

Technical Document submitted with application

A Design and Access statement has been submitted with the application. This clarifies the intended use of the building and provides information in respect of the applicants business and the justification for the building. Information on the access is also included.

History:-

08/00143/FUL	Retention of Fence and Gate	Approved	04.04.08
03/00154/FUL	Erection of Barn	Approved	26.03.03



Consultations:-

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

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

Site notice was displayed and neighbours notified.

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

Desford Parish Council
Ward Members
Neighbours.

Policy:-

National Policy Guidance

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' sets out the Government's planning policies for rural areas. One of its objectives is to promote sustainable, diverse and adaptable agriculture sectors where farming contributes both directly and indirectly to rural economic diversity. 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 and scale with its location, and sensitive to the character of the countryside and local distinctiveness. Paragraph 16 states that when determining planning applications for development in the countryside, local planning authorities should: (among other factors) support development that delivers diverse and sustainable farming enterprises.

Regional Policy

The Court of Appeal, in April 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS's proposal to abolish regional strategies. The Court confirmed that the Government's proposal to abolish regional strategies is a material planning consideration, but that it is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

East Midlands Regional Plan 2009

No policies relevant.

Local Development Framework Core Strategy 2009

Policy 13 refers to Rural Hamlets and is supportive of development which complies with Policy 17: Local Needs

Policy 17 refers to Rural Needs and is supportive of developments where the need cannot be met within the settlement boundary. The development must be of a scale and design which respects the character of the settlement concerned and the level of need identified.

Hinckley and Bosworth Local Plan 2001

The site is situated within the open countryside.

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

activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; does not adversely affect the occupiers of neighbouring properties.

Policy NE5 states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is either: important to the local economy, and cannot be provided within or adjacent to an existing settlement; 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.

Supplementary Planning Guidance / Documents

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

Appraisal:-

The main considerations with regard 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. This said the local authority has to be certain that the proposed building is required for the agricultural practices relating to the land on which the building is sited.

Since submission further justification has been provided by the applicant for the proposed building. Although the applicant only owns a parcel of land measuring 2 hectares, he rents a further 83 acres of land, 20 acres being immediately adjacent to the site. The applicant farms this land for hay and straw, which he then sells off privately. He has also provided information as to the farm machinery which he owns, which is summarised in the introductory paragraph. The proposed building is to be used to store the outlined agricultural machinery and its size and scale is considered acceptable for this. Based on the supporting information submitted it is considered that there is adequate agricultural justification for the building proposed and that the principal of the development is therefore acceptable.

Design and Impact on the character and appearance of the countryside

The building proposed is of common agricultural design, having a rectangular footprint and a shallow pitched roof. The building has been designed for purpose, having large openings at either gable end to allow large farm machinery access. The barn is to be constructed from

corrugated steel sheets which are to be painted Juniper Green. This will help assimilate the building into its surrounds.

When viewed from the south, the building will be seen against a backdrop of existing development along Main Street and when viewed from the west will be seen against the similar sized adjacent agricultural building already on site. From Main Street the building will be largely screened by the residential development due to the drop in ground levels to the south. As a result of the mature vegetation along the north western boundary and the proposed colouring of the building, only fleeting views will be available from the west. Accordingly the proposal is not considered to have any adverse impacts on the character or appearance of the countryside and is considered to be of an acceptable design.

Impact on Neighbours

The proposed building is a distance of 150m from the closest residential property on Main Street. Accordingly, due to this distance and the fact the building is to be used to store existing machinery there are considered to be no material impacts on the amenity of nearby residential properties.

Highway Issues

The building is to be accessed via the existing access on Main Street, and as the building will not result in any further intensity in activity on the site, the Director of Environment and Transport (Highways) has no objections.

Conclusion

The applicant has provided information justifying that the building is required in this position for the purposes of agriculture. It has also been demonstrated that the size and scale of the building is required for the use proposed. The site is within the open countryside, however due to the proliferation of existing development on the site, the fact that the site is well screened and that the development will be viewed against the backdrop of existing development; the building proposed is not considered to have any detrimental impacts on the character of the surrounding countryside. Further there will be no material impacts on residential amenity or in terms of highway safety. Accordingly subject to conditions the application is therefore recommended for approval.

RECOMMENDATION:- Permit subject to no significant material objections being received prior to the expiry of the consultation period on [28/6/11] and 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 use, siting, design and appearance would not detrimentally affect the character and appearance of the area or highway safety and would be in accordance with the development plan.

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

Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (2009):- Policy 13, Policy 17

- 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 submitted application details, as follows:- Plan 1, Plan 2, Plan 3, Plan 4, Plan 5 received by the Local Planning Authority on the 12/4/11.

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 interest 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 Surface water should be discharged to a soakaway or a natural watercourse.

Contact Officer:- Eleanor Shaw Ext 5680

Item: 08
Reference: 11/00365/COU
Applicant: Mr Peter Dean
Location: Land Adj 50 Forest Rise Groby
Proposal: CHANGE OF USE OF LAND FROM OPEN SPACE TO RESIDENTIAL CURTILAGE (5 METRE STRIP) AND ERECTION OF FENCING.
Target Date: 5 July 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it potentially raises local controversial issues and was sold to the applicant by the Borough Council.

Application Proposal

Full planning permission is sought for the change of use of open space to residential curtilage for the adjacent residential dwelling No. 50 Forest Rise.

The application site consists of a triangular shaped, grassed area of land of which 5 metres is sought for an extended garden area.

During the course of the application, the applicant has provided an additional plan and further details in respect of the size and type of boundary treatments proposed. The applicant has stated that a 1.83 metre high close boarded fence would occupy the site to the rear and side, but drop down to a height of 1 metres to the front of the site which will incorporate a matching gate to a height of 1 metre. The additional fencing is to match the existing. Re-consultation has been undertaken.

Additional information has been requested in relation to the gate and will be reported on as a late item.

The land has previously received consent for the erection of one dwelling (ref: 09/00493/DEEM) whilst under the ownership of Hinckley and Bosworth Borough Council. The land has subsequently been sold to the owners of No. 50 Forest Rise, who intend to extend their garden area.

The Site and Surrounding Area

The site is a corner plot situated at the junction of Lawnwood Road, Forest Rise and Martinshaw Lane. There is a single silver birch tree on the open space, but this does not fall within the application site and as such will be retained.

For the avoidance of doubt the site does not have any recreation designation, but falls within the settlement boundary of Groby, as defined within the adopted Hinckley and Bosworth Local Plan.

Technical Document submitted with application

The application is not accompanied by any other documentation.

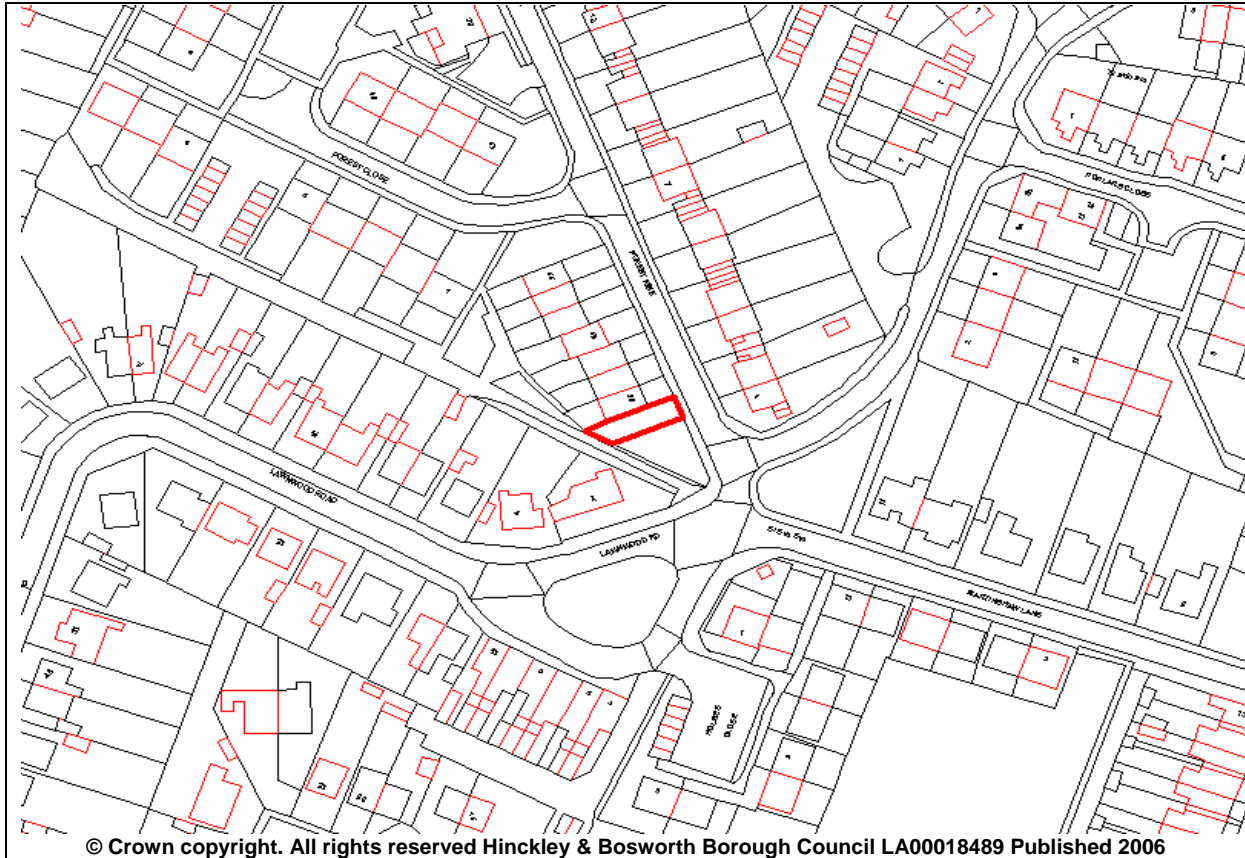
History:-

09/00493/DEEM

Erection of dwelling

Approved

05.08.09



Consultations:-

Groby Parish Council has an objection to building a residential property, but have no objections to having 5 metres of land.

At the time of writing the report no comments have been received from Ward Members.

The consultation period remains open at the time of writing and closes on 10 June 2011. Any further consultation response received before the closing date will be reported and appraised as a late item.

Policy:-

National Policy Guidance

Planning Policy Statement 1 – ‘Sustainable Development and Climate Change’, outlines the Government’s objectives for the land use planning system with a focus on protecting the environment.

Regional Policy

The Court of Appeal, in May 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS's proposal to abolish regional strategies. The Court confirmed that the Government's proposal to abolish regional strategies is a material planning consideration, but that is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

East Midlands Regional Plan 2009

None relevant.

Local Development Framework Core Strategy 2009

Policy 7: 'Key Rural Centres' supports development within key rural centres to ensure they can provide key services to their rural hinterland.

Policy 8: 'Key Rural Centres Relating to Leicester' relating to Groby seeks to address existing deficiencies in the quality, quantity and accessibility of green space and play provision in Groby.

Hinckley and Bosworth Local Plan 2001

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

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; 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 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

None relevant.

Other material policy guidance

None relevant.

Appraisal:-

The main considerations with regards to this application are the principle of development, impact upon visual amenity, impact upon residential amenity and highway considerations.

Principle of Development (Loss of Open Space)

The site does not afford any recreational designation and as such there is no policy support for its retention. The existing open space is triangular in shape and the intention is to create a 5 metre linear strip adjacent to the dwelling, ensuring, as a maximum, that a 15 metre strip across the front of Forest Rise is retained.

There are also two other open spaces within the vicinity – a plot between Stephenson Way and Martinshaw Way to the east of the site and also another green space which forms more of a ‘central green’ around Lawnwood Road to the south of the site.

In summary, there is no in principle objection to change of use of the land within this residential setting and for the reasons discussed in this report, it is not considered that there are any issues which would suggest that the scheme would be contrary to local development plan policies.

Impact upon Visual Amenity

The grassed land is an area of open space that enhances the character of the surrounding area and is an important part of the streetscene. The primary issue is whether the change of use of the land has a detrimental impact on the visual amenity of the area.

As previously discussed it is not the intention to remove all of the existing open space on the site, ensuring that a significant amount of this land is retained and still functions as it was originally intended to do. This also allows an ‘open’ element to be maintained and that the changes would not significantly detract from the function and appearance of the open space.

The application is intended to be enclosed by the erection of timber boarded wooden fencing. The application dwelling’s existing boundary treatments are close boarded timber fence and there are also other examples of mature hedgerows, brick walls and timber fences that bound the curtilages of dwellings within the immediate area. As such, the close boarded timber fencing and gate are considered appropriate in this location and not visually prominent within the streetscene.

In summary, the change of use and erection of the boundary treatments does not give rise to any significant detrimental visual impacts on the area and the current open character of the area would not be significantly compromised.

Impact Upon Residential Amenity

The residential dwellings most immediately impacted upon as a result of the proposal would be No. 1 Forest Rise located due east and No. 2 Lawnwood Road located to the south west of the site.

No. 1 Forest Rise is sited directly opposite the site and currently overlooks the open space. Given that a substantial amount of the open space is set to be retained and that the proposed boundary treatments as previously discussed are not considered to be visually prominent, there are no material impacts identified.

No. 2 Lawnwood Road is located some 6 metres away and an access track occupies the land in between, which together with the presence of mature vegetation and existing boundary treatments gives significant screening between the host and this neighbouring dwelling to ensure no significant material impacts.

In summary, it is not considered that the change of use of the land and erection of boundary treatments would give rise to any significant material impacts upon residential amenity.

Highway Considerations

The application dwelling has provision for 2 no. off street car parking spaces to the front of the site, and the application site is not intended for the laying out of hard surfacing and/or parking of vehicles.

Conclusion

In conclusion, in the absence of recreational policy support, the principle of residential curtilage in this residential location is considered acceptable. The proposed scheme does not give rise to any significant material impacts on either visual or residential amenity or highway safety. Accordingly, the proposal is recommended for approval, subject to the imposition of planning conditions.

RECOMMENDATION:- Permit subject to no significant material objections being received prior to the expiry of the consultation period on 10 June 2011 and to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as the proposals within this residential setting are considered acceptable and do not give rise to any significant material impacts on either visual or residential amenity or highway safety.

Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (2009): - Policies 7, 8.

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the details: Block Plan (Scale 1:500) received on 10 May 2011; additional details received on 30 May 2011 and additional plan (Scale 1:500) received 3 June 2011.
- 3 The 1 metre high fence and 1.83 metre high fence shall be retained along the boundary with the open space, as shown on the additional plan (Scale 1: 500) received by the Local Planning Authority on 3 June 2011, unless otherwise agreed in writing with the Local Planning Authority.
- 4 The change of use of the open space shall only be for the 5 metre strip of land as shaded on the Block Plan (1:500) received by the Local Planning Authority 10 May 2011.

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 In the interests of visual amenity to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 4 For the avoidance of doubt and to ensure that a suitable level of open space area remains in the interests of preserving the open nature of the area, 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).

Contact Officer:- Ebony Mattley Ext 5691

Item: 09

Reference: 11/00402/COU

Applicant: Mr Raymond Fudge

Location: Peppercorn Cottage 8 Market Place Market Bosworth

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

Target Date: 14 July 2011

Introduction:-

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

Application Proposal

Members may recall that a similar application was withdrawn from the previous committee agenda on discovery that the application did not include the outbuildings to the rear which have been, and will continue to be, used in conjunction with the Café.

As such, this application now seeks retrospective planning permission for the change of use from Delicatessen (Use Class A1) with tea room and outbuildings 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 proposes the opening hours to be from 9 am to 6 pm Monday to Saturday and 10 am to 5 pm Sundays and Bank Holidays. The business employs two full time and two part time members of staff.

For the avoidance of doubt, the flat roof shed sited to the rear of the building has subsequently been removed and does not form part of the application. Following the removal of the shed, the fridge/freezer units have been re-sited to the brick outbuilding and the stock transferred to the kitchen and counters. An amended plan has been submitted to reflect this and the application form has been amended to ensure that the changes to non residential floor space are accurate. Re-consultation has been undertaken.

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 property, 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 consists of 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.

Additional information also states that three tables, each with four chairs, have been placed out in front of the premises and do not obstruct 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 used for the storage of cleaning tools and domestic cleaning products.

Consultations:-

No comments from:-

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

The Head of Community Services (Pollution) has confirmed that the café has been operating since February 2009 and no complaints relating to pollution matters have been received since this time, and considers that the continued use of the premises as at present would be unlikely to present an issue in relation to noise or odour given the current menu and capacity, which according to the applicant is unlikely to change. The Head of Community Services (Pollution) states that as activity could be increased that a Note to Applicant be added to ensure that any substantial change in operations leads to a new application for improved ventilation.

Market Bosworth Parish Council raise no objections subject to a restriction by condition to the number of tables and umbrellas on the pavement at the front and that a further condition should be added that odour and fumes should be correctly vented so as not to cause nuisance, particularly to adjacent properties.

Site notice displayed and neighbours notified.

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

Market Bosworth Parish Council
Ward Members.

The consultation period remains open at the time of writing and closes on 20 June 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 Court of Appeal, in May 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS's proposal to abolish regional strategies. The Court confirmed that the Government's proposal to abolish regional strategies is a material planning consideration, but that is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

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 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 BE6: 'Change of Use of a Listed Building' states that planning permission will be granted for the change of use where the change would represent the best reasonable means of conserving the character, appearance, fabric, integrity and setting of the building, would not necessitate internal or external alterations and where applications are accompanied by detailed drawings of any alterations, both external or internal.

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 sits in an area designated for retail use through Policy Retail 7 – Local Shopping Centres and Policy Retail 8 – Change from Retail Use within Local Centres which states that the 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 change of use to a solely A3 use would have any significant material impacts over and above that currently occurring from the premises use as an existing A1 delicatessen with part of the shop used as an eating area.

In summary, given the level of eating already taking place within the unit combined with the above mentioned policy designation, there is 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.

The Head of Community Services (Pollution) has confirmed that the café has been operating since February 2009 and no complaints relating to pollution matters have been received since this time, and feels that the continued use of the premises as at present would be unlikely to present an issue from noise or odour given the current menu and capacity, which according to the applicant is unlikely to change. Following re-consultation, Head of Community Services (Pollution) has no objection to the re-siting of the stock and fridge/freezer units. 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.

The brick outbuilding to the rear will now comprise the fridge/freezer units and it is considered that throughout the day that this could give rise to a level of comings and goings between the kitchen and the outbuilding. However, it is considered that 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 significantly 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 generated by the previous use or the use of the unit as an A1 use. It is also considered that following the removal of the shed, which was sited in closer proximity to the neighbouring dwelling, there is likely to be a reduction in the level of noise associated with these comings and goings from the neighbours immediate amenity area.

Previous concerns have been raised that there is a potential for the development of the business and that therefore possible increases 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 desired in the future. The impact of this 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, not only the adjoining property, but the properties to the rear, though it is considered that their relationship with the application site is acceptable and does not raise any significant amenity concerns.

For the avoidance of doubt the residential accommodation above the premises is not occupied.

In summary, it is considered that subject to the use operating within the defined hours, it is not considered that there would be a significantly detrimentally 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.

For the avoidance of doubt, this application seeks retrospective change of use of the main building and outbuilding 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 highway 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.

Previous concerns were 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 has 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 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 the very 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.

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) who raises 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 generated 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 20 June 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 & Bosworth Local Plan (2001):- Policies Retail 7; BE1; BE4; BE6; BE7; T5; SPD on Shopping and Shop Fronts.

Hinckley & 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.
- 6 Should, the operations on site lead to a significant intensification of cooking, a new application for improved ventilation should first be submitted to the Local Planning Authority.

Contact Officer:- Ebony Mattley Ext 5691

Item: 10

Reference: 11/00406/DEEM

Applicant: Hinckley And Bosworth Borough Council

Location: Florence House St Marys Road Hinckley

Proposal: CHANGE OF USE FROM CLASS B1 OFFICES TO CLASS D1 CONSULTING / TREATMENT ROOMS

Target Date: 27 July 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the scheme of Delegation as it is an application made by Hinckley and Bosworth Borough Council.

Application Proposal

Planning permission is sought for the change of use of part (150 square metres) of the ground floor of Florence House, St Marys Road, Hinckley from B1 Offices to D1 Treatment/Consulting rooms. The proposed hours of operation are Monday to Saturdays 7:00am to 20:00pm, closed Sundays.

The part of the building to which this application refers is currently used as a committee room and training room in connection with the Borough Council's functions. Entrance to the building will be via a shared access point at the front of the building.

The Site and Surrounding Area

The site consists of a modern, detached three storey office building which fronts St Marys Road with a car parking area to the rear. The site is located within the Hinckley town centre, the neighbouring buildings to either side of the site are commercial and there is a public car park located on the opposite side of St Marys Road. To the rear of the site is The Vicarage site, a detached dwelling within a large plot which is well screened by mature planting.

The site is located within the settlement boundary of Hinckley and the Hinckley Town Centre Conservation Area, as defined by the adopted Hinckley and Bosworth Local Plan (2001).

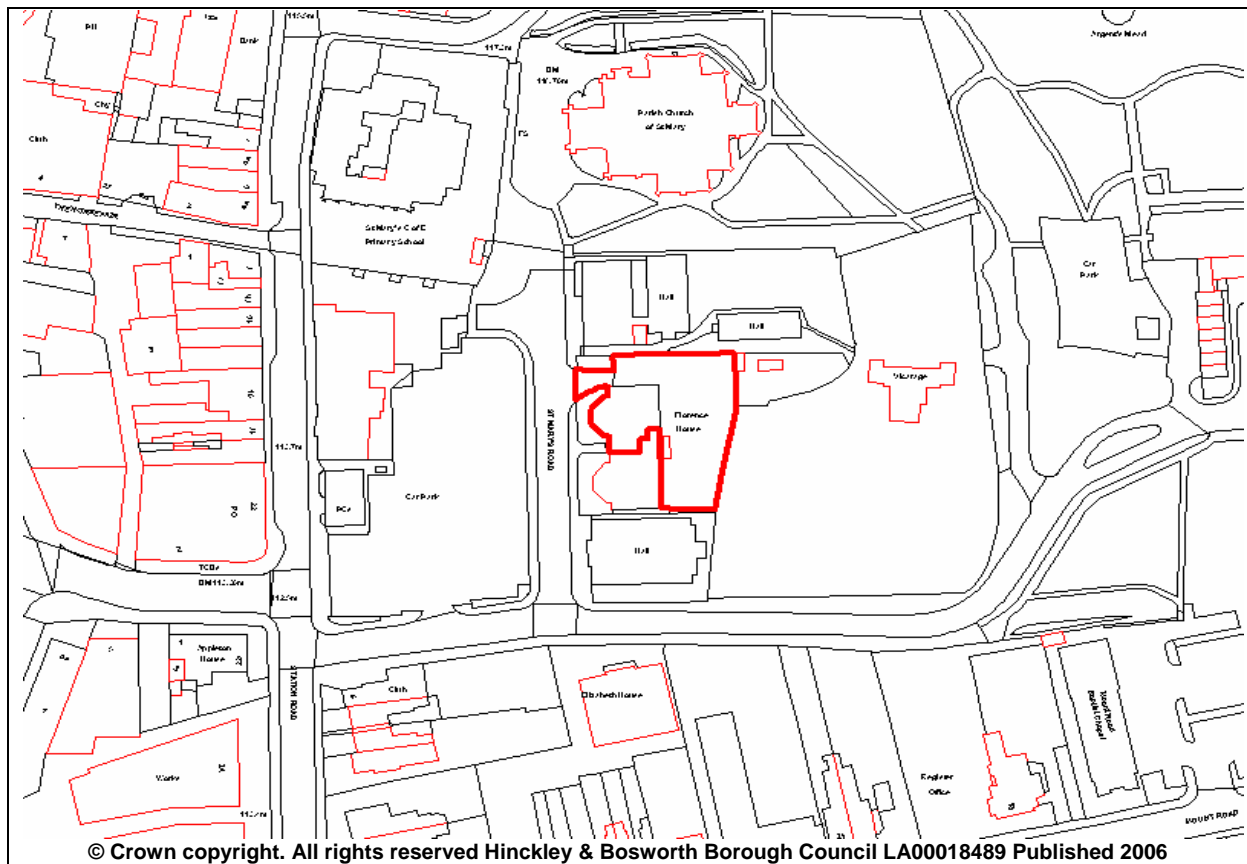
Technical Documents submitted with application

The application has been submitted with a Design and Access Statement which states that the proposed use will not change the layout or general use of car parking and the proposal will have a pro rata allocation of 4 parking spaces. The building is opposite a public car park with 24hr access. It is not anticipated that the proposed use will cause any material change in the overall number of people accessing the building. The proposed use involves no form of medical, mechanical or electrical equipment or apparatus causing noise and it is considered that noise levels will be similar to a general office with standard office equipment as with the existing use in the remainder of the building.

The Design and Access Statement refers to internal partitioning to be provided that will not require planning permission.

History:-

None relevant to the consideration of this application.



Consultations:-

No objections have been received from:-

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

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

- Director of Adults and Communities (Museums)
- Historic Building Panel
- Ward Members.

Site notice and Press notice were displayed and neighbours notified.

The consultation period remains open at the time of writing and closes on 30 June 2011. Any consultation response received before the closing date will be reported and appraised as a late item.

Policy:-

National Policy 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. Policy EC2.1(d) seeks to make the most efficient and effective use of land, prioritising previously developed land which is suitable for re-use and reflects the different location requirements of businesses, such as the size of site required, site quality and access. EC10: Determining Planning Applications for Economic Development" which supports applications which secure sustainable economic growth

Planning Policy Statement 5 (PPS5): 'Planning and the Historic Environment' sets out how applications affecting heritage assets should be determined; it requires Local Planning Authorities to assess impacts on the historic environment.

Regional Policy

The Court of Appeal, in May 2011, gave judgment on an appeal by CALA Homes in relation to their continuing challenge to the SoS's proposal to abolish regional strategies. The Court confirmed that the Government's proposal to abolish regional strategies is a material planning consideration, but that is up to the LPA to decide what weight to give to the proposal in considering planning applications. The Localism Bill is still going through the Parliamentary process and the SoS has now confirmed that the actual revocation of any regional strategy will be subject to a Strategic Environmental Assessment. The view taken currently is that little if any weight should be given to the proposal to abolish regional strategies. This advice may change as the Bill progresses and officers will monitor the progress and report appropriately to committee.

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.

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

Local Development Framework Core Strategy 2009

Spatial Objective 8: seeks to retain and enhance employment opportunities in the Hinckley Town Centre Area Action Plan boundary.

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

Hinckley and Bosworth Local Plan 2001

The site is within the settlement boundary of Hinckley and the Hinckley Town Centre Conservation Area, as defined in the adopted Hinckley and Bosworth Local Plan.

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; is not adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; does not adversely affect the occupiers of neighbouring properties.

Policy BE7: 'Development 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.

Other material policy guidance

The Hinckley Town Centre Area Action Plan (AAP) was adopted through Full Council on 21st March 2011, as such, it currently forms a formal development plan document for Hinckley Town Centre as part of the Local Development Framework. The application site falls within the Hinckley Town Centre Area Action Plan boundary.

Appraisal:-

The main considerations with regards to this application are: principle of development; impacts on the Hinckley Conservation Area; its impact on the amenities of neighbouring properties and highway considerations

Principle of Development

The site falls within the settlement boundary of Hinckley and within the Town Centre Boundary. The Town Centre Boundary within the Hinckley Town Centre Area Action Plan (AAP) also reflects that of the Local Plan, and as such the sites fall within the Town Centre in both instances.

There is a presumption in favour of development within the settlement boundary of Hinckley subject to all other planning matters being appropriately addressed.

The APP recognises that there is a need for a range of employment opportunities in the town centre.

Impact on Character and Appearance of the Hinckley Conservation Area

The proposal is located within Hinckley Town Centre Conservation Area. The scheme does not propose any alterations to the external elevations of the building and therefore, it will have no significant effect on the character and appearance of the Conservation Area. On this basis it is considered to preserve the current character and appearance of the existing Conservation Area in accordance with Saved Policy BE7 of the adopted Local Plan.

Impact on Neighbours

The site is within the town centre which is characterised by mainly commercial premises. The nearest residential property to the site is St Marys Vicarage which is located within a large plot to the rear of the site. The Vicarage building is some considerable distance (approximately 45 metres) from the boundary with Florence House and is highly screened by mature trees and planting. The proposal is for change of use which is not anticipated to

cause any significant alteration in current noise levels or footfall to the building, as such it is considered that the impact upon neighbouring residential property will not be materially affected by the proposal. The Head of Community Services (Pollution) has raised no issues in terms of potential noise.

The application refers to proposed hours of operation of Monday to Saturdays 7:00am to 20:00pm, closed Sundays. Given the town centre location and the distance from the nearest neighbours, the hours of operation proposed are considered to be acceptable and it is not considered necessary to impose a specific hours condition.

Highway Considerations

The Director of Environment and Transport (Highways) has confirmed that he has no objection to the proposal given the town centre location.

Conclusion

In principle, the scheme affords policy support for the proposed use. It is considered that the type of use proposed can be operated without any significant material impact upon the amenities of nearby residents. The proposed level of use is considered acceptable in terms of design, highway safety and impact on the character of the Conservation Area. The application is therefore recommended for approval subject to conditions.

RECOMMENDATION:- Permit subject to no significant material objections being received prior to the expiry of the consultation period on 30 June 2011 and to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as the proposal will preserve and enhance the character and appearance of the Hinckley Conservation Area and would not have an adverse impact on neighbouring properties or highway safety.

Hinckley & Bosworth Local Plan (2001):- Policies BE1, BE7, T5.

Hinckley & Bosworth Borough Council 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: Site location plan and existing/proposed floorplans received 1 June 2011.

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.

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:- Louise Forman Ext 5682

PLANNING COMMITTEE – 21 JUNE 2011

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)
RE: ENFORCEMENT PROTOCOL

1.0 PURPOSE OF REPORT

1.1 To inform Members of, and to seek Members agreement on the appended enforcement protocol for use in the delivery of the development control service.

2.0 RECOMMENDATION

2.1 That Members:

- (i) note the content of the report; and
- (ii) agree the measures and procedures set out in the enforcement protocol for use in the delivery of an effective customer focussed enforcement service.

3.0 BACKGROUND TO THE REPORT

3.1 The enforcement service has recently undergone a restructure resulting in the service being moved under the Development Control Manager and integrated into the development control teams. It comprises 2 Planning Enforcement Officers.

3.2 This restructure mainly resulted from the loss of the Principal Enforcement Officer and the need to have 2 equal officers processing the enforcement case load, together with the view that given the close relationship between Development Control and Enforcement a co-ordinated approach under a single manager was a logical approach.

3.3 Since establishing the new structure work has been carried out to reduce the backlog of cases that has built up in the absence of the Principal Enforcement Officer, this reduction in cases has been enabled using a part time experienced enforcement officer from an adjoining authority on a consultancy basis funded by HPDG monies. This contract is shortly to end.

3.4 The case load within the service is now manageable however, the Local Authorities procedure for dealing with matters of enforcement has not previously been set out, agreed and published. In order to ensure enforcement complaints are processed in a fair, efficient and transparent manner it is necessary to set out the procedures and formally adopt them for use.

4.0 **THE PROTOCOL**

4.1 The protocol appended to this report seeks to provide an overview of the enforcement service and set out for our customers how complaints will be handled and what the customer can expect from the service.

4.2 The protocol provides examples of what are and are not enforcement matters, and how different types of breaches of planning control will be processed. Importantly, it seeks to prioritise complaints depending upon the severity of the alleged breach. This will ensure complaints are processed using resources efficiently and effectively and ensuring serious breaches are dealt with promptly.

4.3 The protocol sets out the different types of resolution depending upon the outcome of the investigation into the alleged breach. It provides a guide to the timescales in order that our customers will know when to expect different stages in the process to be reached. It should be noted that the timescales provided, and highlighted within Annex 3, are those that can currently be monitored through the CAPs Uniform System. As the system is developed further it will be possible to monitor additional timescales which can be added to the protocol in the future. This work is ongoing.

5.0 **FINANCIAL IMPLICATIONS [CB]**

5.1 The costs associated with following the recommended processes can be met from existing budgets.

6.0 **LEGAL IMPLICATIONS [MR]**

6.1 Set out in the report and draft protocol.

7.0 **CORPORATE PLAN IMPLICATIONS**

7.1 This document contributes towards Strategic Aims 2 and 4 of the Corporate Plan.

8.0 **CONSULTATION**

8.1 No consultation has been undertaken

9.0 **RISK IMPLICATIONS**

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

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

The following significant risks associated with this report were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
The lack of a coherent and effective enforcement service fair to all users and customers	Adoption of protocol to ensure an effective and efficient delivery of the service	Simon Wood

10.0 KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

10.1 Equalities Impact Assessment has been undertaken for this protocol and there are no actions required.

11.0 CORPORATE IMPLICATIONS

11.1 By submitting this report, the report author has taken the following into account: [if you require assistance in assessing these implications, please contact the person noted in parenthesis beside the item]

- | | |
|---------------------------------|------------------------------|
| - 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 [VAHB] | None relating to this report |

Background papers: Planning Enforcement Protocol.

Contact Officer: Tracy Miller, Development Control Manager, ext 5809

Planning Enforcement Protocol

Hinckley and Bosworth Borough Council

June 2011

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Preface

This document has been produced in response to government advice and has been formulated in the context of the national, regional and local planning policies and guidance, as detailed in paragraph 1.2 and part 11 of this document. It is intended to assist the Council in undertaking its planning enforcement work, and inform all parties (including Council Officers, Councillors, complainants and developers) of the processes and procedures involved.

1.0 Planning enforcement and the Council's objectives

1.1 The planning enforcement service

The planning enforcement function of the Council is co-ordinated by two Planning Enforcement Officers within the Development Control Team under the supervision of the Development Control Manager and the Head of Service.

1.2 Legislative Framework and guidance

The planning enforcement service operates within the legislative framework of the Town and Country Planning Act 1990 (as amended) and all its subordinate and associated legislation. Any planning enforcement action taken by the Council must be led by the policies of the Development Plan. The Development Plan comprises:

- The Hinckley and Bosworth Core Strategy 2009
- The Hinckley and Bosworth Local Plan 2001
- Adopted Area Action Plans
- Adopted Supplementary Planning Documents/Guidance

In addition to the Development Plan and any other material considerations, the following sets out the legislative framework applicable to breaches of planning control:

- The Town and Country Planning Act 1990
- The Planning (Listed Building and Conservation Areas) Act 1990
- Planning and Compensation Act 1991
- Planning and Compulsory Purchase Act 2004
- The Planning Act 2008
- The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as amended)
- Town and Country Planning (Trees) Regulations 1999 (as amended)
- The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Anti Social Behaviour Act 2003, Part 8 High Hedges
- The Regulation of Investigatory Powers Act (RIPA) 2000

Advice from Central Government on planning enforcement is set out primarily in the following documents:

- Planning Policy Guidance Note 18 Enforcing Planning Control (December 1991) (PPG18)
- Department of the Environment Circular 10/97 (July 1997); Legislative Provisions and Procedural Requirements.
- Enforcing Planning Control; Good Practice Guide for Local Planning Authorities (July 1997).

The European Convention on Human Rights confers rights that are embodied in the Human Rights Act 1998. It would be unlawful for the Council to act in a way that is incompatible with a Convention right.

1.3 Objectives

The primary objectives of the planning enforcement function are to remedy harm to public amenity resulting from unauthorised development, and to control it, making sure the integrity of the planning system is not undermined. In striving to achieve these objectives, the Council must not take disproportionate action and cannot seek to “punish” those responsible for breaches by taking action against technical breaches that cause no serious harm to public amenity.

It is important to note that this Planning Enforcement Protocol does not condone breaches of planning control, and that planning permission (including listed building, conservation area and advertisement consent as well as applications to carry out works to protected trees) should always be sought prior to undertaking any form of development that requires express consent (planning permission), it should also be noted that the power to take enforcement action is nevertheless discretionary and should only be used when the Council is satisfied that there has been a breach of planning control and that it is expedient to issue a notice having regard to the Development Plan and to any other material planning considerations.

2.0 What planning enforcement matters the Council investigates

2.1 The Council’s planning enforcement remit

The Council is responsible for investigating breaches of planning control. A breach of planning control is development carried out without the requisite express consent of the Council. It should be noted, however, that normally the carrying out of unauthorised development does not initially constitute a criminal offence.

In addition to breaches of planning control, the Council investigates unauthorised works to listed buildings, total or substantial demolition in a conservation area, the unauthorised display of advertisements, and unauthorised works to protected trees; all of which do constitute a criminal offence.

The Council also investigates reports of untidy land/premises and where necessary can require the land to be tidied using its powers under Section 215 of the Town and Country Planning Act 1990.

Planning permission is required for **development**. This can be broadly categorised as either:

- *Operational Development* – this is anything built on, over or under land, and would include a new house, road, sewers, embankments, engineering operations and some forms of demolition .
- *Material Change of Use* - this is any change of use of a building or land and would include the change of use of a house to a dentist’s practice for example.

Examples of breaches of planning control that the Council investigates are:

- Unauthorised Operational Development – carrying out of building works, for example, construction of buildings or extensions;
- Unauthorised Material Changes of Use – materially changing the use of the building or land, for example, using a shop as a restaurant;
- Breaches of Conditions – breaching conditions attached to planning permissions, for example, conditions restricting hours of operation;
- Unauthorised works to a Listed Building that affect its character as a building of special architectural or historic interest;
- Unauthorised substantial demolition in a Conservation Area;
- Unauthorised display of advertisements;
- Unauthorised works to protected trees; and
- Poor condition of private land that is affecting the amenity of the area.

2.2 Non-planning issues

The Council receives many requests regarding issues that do not involve a breach of planning control. It is important to identify those issues which are relevant to planning and those which do not come within the remit of planning enforcement.

Examples of issues that do not constitute 'development' and are not planning matters include:

- Issues relating to trees that are not within a conservation area or protected by Tree Preservation Order
- Unauthorised use of the highway, for example, for car repairs or parking contraventions;
- Dangerous structures / subsidence (see paragraph 2.3);
- Internal refurbishment of buildings that are not Listed;
- Party wall or land ownership disputes;
- Pests or vermin.

2.3 Permitted Development Rights

Some forms of development, often within the curtilage of a dwelling house, have the right to be carried out without the need to submit a formal planning application, providing the work conforms to certain conditions and limitations. These are known as Permitted Development Rights.

These types of 'permitted development' may need to be investigated (for example, to accurately measure the size of a house extension), but many of these cases can be established as being permitted development at the point of receiving the alleged breach (see paragraph 4.4 of this document).

2.4 Referring alleged breaches to other departments

Although the Council will receive enquiries with regard to non-planning matters, alleged breaches can often be dealt with more efficiently and effectively by other Council departments who have stronger powers in these areas. Even if there are relevant planning issues to be dealt with in a case, there may be issues that should also be referred to other departments. An example of cross-service working relates to dangerous structures which are controlled under the Building Regulations by the Council's Building Control Team. Another example is the cross-departmental group which deals with Section 215 notices.

3.0 Reporting alleged breaches

3.1 Information required

Before an alleged breach can be logged as a planning enforcement case, it is important that a basic level of information is provided. The complainant must provide a name and full contact details including their address, as well as the address of the property to which the allegation relates and full details of the alleged breach. The complainant's details must be provided as the Council may be required to contact the complainant for more detailed information during the investigation of the case. Where no contact details are supplied, the alleged breach will not be logged as a case, and where there are only minimal details provided, the complainant will be asked to provide more information before the case can be properly investigated. Where requested information is not provided, an investigation will not commence.

3.2 Methods of reporting an alleged breach

An alleged breach should be submitted in writing, preferably online through the planning enforcement section of the Council's planning web pages (www.hinckley-bosworth.gov.uk). This is the most efficient and effective way of reporting a breach of planning control and the use of the online forms are always encouraged in the first instance. However, where it is not possible to do this, written allegations may be received by letter instead, providing all relevant information is supplied (see paragraph 3.1 of this document).

3.3 Alleged breaches received by telephone and in person

The Council's Customer Services Team, the enforcement officers and other planning officers can also receive alleged breaches directly, normally over the telephone. Although complainants will be encouraged to submit written allegations, if an alleged breach is received by phone or in person, it is important to provide as much detailed information as possible, including full contact details. To ensure all relevant information is provided, the receiving officer will use the online complaint forms to guide them.

4.0 Logging an alleged breach

4.1 Recording a case

Within 3 days of receiving the requisite details of an alleged breach of planning control, the case will be logged on the planning enforcement database and acknowledged. Before a case is logged, the minimum information required should be obtained (as outlined in Part 3.0 of this document). The case will be assigned a priority and a case officer in accordance with paragraphs 4.2 and 4.3 of this document. Details of complainants will remain confidential unless the case proceeds to court, in such circumstances permission to release the details will be obtained prior to doing so, see section 7.

4.2 Case priorities

The priority of a case will be assigned by the Planning Enforcement Officers in liaison with the Development Control Manager where necessary on a case by case basis. Although the priorities are assigned on a case by case basis, they will usually follow the following classification.

1. Top Priority Cases - where works are being carried out which will cause irreparable harm / damage.

Examples:

- a) Unauthorised demolition of a listed building or building within a conservation area; and
- b) Lopping or felling of protected trees;
- c) New residential development in the countryside.

2. Medium Priority Cases - where works or uses are causing a significant and continued harm to amenity, time sensitive breaches or development that compromises safety.

Examples:

- a) Unsafe vehicular access;
- b) Unauthorised development where the time-limit for taking action will expire within the next 6 months;
- c) Unauthorised buildings and/or uses or non-compliance with conditions which have the potential to cause serious long-term damage to the environment, which unless positive action is taken quickly are likely to become more acute;

3. Standard Priority Cases – new structures or changes of use having limited degree of disturbance to local residents or damage to the environment and which do fall within the foregoing priority groups.

Examples:

- a) The unauthorised erection of an extension
- b) Unauthorised uses causing disturbance to a number of residential properties, such as running a business from a dwelling;
- c) small-scale domestic alterations, walls, gates, outbuildings, satellite dishes;
- d) Developments for which it is likely that planning permission would normally be granted;
- e) Untidy land/buildings;
- f) Minor deviations from approved plans; and
- g) Advertisements which are not compromising highway safety.

4.3 Acknowledging an alleged breach

Once the case is logged on the database a letter of acknowledgement will be sent to the complainant within 3 working days of receipt. The letter may ask for additional information and will include contact details to allow the complainant to notify the enforcement service of any further issues that may arise at the site. If additional information is requested it should be provided within 14 days to avoid the case being closed. The acknowledgement letter may also confirm that the works do not, or are unlikely to, require planning permission (see paragraph 2.2 of this document).

5.0 Investigating an alleged breach of planning control

5.1 The planning enforcement process

Every enforcement case is different and as such there are likely to be differences in the way that each case is investigated. Nonetheless, cases will always be investigated in line with government guidance and will normally follow the process outlined in Annex 1, this details when complainants can be expected to be contacted with an update.

Generally the Council will always seek to negotiate a solution to a breach of planning control and formal legal action will only be taken when all other avenues have been explored and where it is expedient to do so.

Where a breach of planning control has been identified, a developer always has the right to submit a retrospective planning application to regularise the breach. However, a retrospective application for an unauthorised development will only be encouraged if it is likely, in officer opinion, that such an application will be considered favourably and not likely to be refused.

5.2 Initial site inspection

Once the case has been logged and assigned a priority, the case officer may need to visit the premises in order to help further establish the exact nature of the alleged breach. In instances where a site visit is needed, the officer will visit the site as soon as is practicable having regard to the priority of the case.

Priority	Visit target
Top priority cases	Within 1 working day
Medium priority cases	Within 5 working days
Standard priority cases	Within 10 working days

Throughout the investigation officers will consider whether it is necessary to reprioritise the case based on the model set out in paragraph 4.2.

5.3 Power to enter land

Due to the nature of planning enforcement work, it may not be appropriate or possible to arrange the initial visit in advance. As such the Planning Enforcement Officer will not normally give advance warning of a site visit. This may mean that access cannot be gained on the first attempt and consequently it may take longer than the initial site visit period to conduct an effective site visit. Denying access to a Planning Enforcement Officer is a criminal offence and, although in the first instance the officer will normally seek the co-operation of the owner/occupier of the premises through discussion or service of a Notice of Intended Entry (see Annex 2), the Council may seek a warrant to enter and / or prosecute for wilful obstruction.

5.4 Co-operation with other departments

The planning enforcement service will co-operate with other Council departments and with external agencies. This may involve information sharing between sections (to obtain, for instance, site history and ownership details), and may also result in a co-ordinated response if formal action is taken. The planning enforcement service will work closely with the

Council's legal services particularly in respect of serving formal notices, prosecution and direct action.

The planning enforcement service will endeavour to refer any enquiries to the relevant department or agency where those issues raised do not come within the remit of the planning legislation (see paragraph 2.3 of this document).

5.5 Establishing a breach of planning control

In establishing whether or not a breach of planning control has actually occurred Planning Enforcement Officers may use a variety of investigative techniques which can include, carrying out detailed site measurements, taking photographs, monitoring activity, researching Council and other agency records and obtaining information from people such as neighbours, Members and Parish Councils.

Although some breaches of planning control are immediately apparent upon the initial site visit, other breaches may be more difficult to identify and the investigation stage may take longer. In these circumstances, the Council may use its powers to require information to be provided that is necessary to establish whether a breach has occurred. These powers include:

- A Planning Contravention Notice (PCN) which requires those served with the notice to provide certain information in order to help establish a breach.
- A Requisition of Information Notice (under Section 330 Town and Country Planning Act 1990), which requires those served with the notice to provide information as to their interest in the land and its use.
- The Council may also utilise their powers of entry (see paragraph 5.3 of this document).

There are a variety of possible outcomes to an investigation into an alleged breach of planning control, including:

- no breach of planning control established;
- breach established but an appropriate resolution achieved by negotiation;
- breach established but not expedient to take formal action;
- breach established and planning application submitted to regularise development;
- breach established and formal action authorised.

Generally, the Council will aim to reach a decision about possible outcomes within 8 weeks of receiving the complaint. However, this target will be dependent on the complexity of the case, and the ability to gather sound evidence of any alleged breach. Therefore, some cases may take longer than 8 weeks to resolve.

5.6 Informal resolution to a breach

It is important to bear in mind that it is not an offence to carry out development without first obtaining planning permission. Government guidance set out in PPG18 and Circular 10/97 states that the Local Planning Authority should first attempt to resolve breaches of planning control informally through negotiation with the land owner or developer.

Ultimately, the purpose of the planning enforcement regime is to mitigate the harm to amenity that may result from unauthorised development. It would be unreasonable for the Council to issue an enforcement notice solely to remedy the absence of a valid planning permission. Where the Council does issue a notice for this reason, it would be at risk of an award against them for the appellant's costs in the event of a successful enforcement notice appeal. Consequently, where it appears that there is a reasonable prospect that planning permission would be granted for the development, the Council will encourage the party responsible for the development to submit a retrospective planning application.

When considering a retrospective application for the retention of the unauthorised development or use, the full planning considerations will be taken into account. Planning considerations are considered in the context of the public interest and not personal or

private interest. Consequently planning permission not being sought prior to the development being carried out cannot influence the Council's decision making and each case will be determined on its own merits.

5.7 Taking formal action - serving notices

If informal negotiations fail or a retrospective planning application is refused, the Council will consider the expediency of taking formal action. The Planning Enforcement Officer will make a recommendation to take formal enforcement action, setting out the planning considerations and assessing the level of harm that is caused by the development.

The case officer's recommendation will then be considered and authorised by the relevant delegated officer, in accordance with the Council's scheme of delegation. Where there is substantial local or Member interest in a particular case the case officer's recommendation will be reported to Members of the Planning Committee.

A record of all Enforcement Notices, Breach of Conditions Notices, Listed Building Enforcement Notices, Section 215 Notices, Conservation Area Enforcement Notices and Stop Notices is kept on the Enforcement Register and is recorded on the Land Charges Register. It should be noted that cases where no formal action has yet been taken will not show up on land searches. Consequently, prospective purchasers should make sure relevant enquiries are made regarding any works and changes of use at the premises.

The Enforcement Register is a public record and can be viewed by anyone by arranging an appointment to do so with Customer Services (contact details are in part 10 of this document).

Anyone served with an Enforcement Notices has a right of appeal against the notice. If an appeal is lodged, the requirements of the notice will be held in abeyance pending the outcome of the appeal. The appeals process can be lengthy and may take several months to resolve.

5.8 Prosecutions and Injunctions

Where there is a breach of the requirements of an Enforcement Notice, Breach of Condition Notice, a Stop Notice, the party concerned is guilty of an offence and the Council can initiate prosecution proceedings. It may also be necessary to prosecute for offences such as advertisement, tree, and conservation area and listed building breaches and also for non compliance with Planning Contravention Notices, s330 notices and so on (see Annex 2).

In initiating prosecution proceedings, the Council will have regard to the Crown Prosecution Service's tests of prosecution:

- i) Does the prosecution have a realistic prospect of success?
- ii) Is it in the public interest to prosecute?

In certain cases it may be appropriate to seek an Injunction. This may include situations such as multiple prosecutions that have not resulted in compliance with the notice and ongoing destructive works to a listed building.

5.9 Direct Action

In some cases, particularly where a Section 215 Notice has been served, instead of prosecuting for non-compliance with the notice, it may be considered more expedient for the Council to undertake the required works in default to remedy the breach or bring the land/building back to an acceptable standard.

In such cases quotes will be obtained in line with the Council's corporate procurement procedures and subject to the availability of funds, works carried out with the costs re-charged to the landowner as a Land Charge.

6.0 Closing enforcement investigations

6.1 Recommending a case for closure

Before closing a case the case officer must justify the reasons for closure. A short report detailing the extent of the investigation and the findings shall be prepared by the Planning Enforcement Officer and signed off by either the Development Control Manager or Head of Service.

If the recommendation to close the case is agreed, the case will be closed on the Council's database and the case will be filed / archived. All closed cases and reasons for closure will be reported to Planning Committee quarterly. It should be noted that if new evidence comes to light a case can be re-opened and re-investigated.

6.2 Closing a case where action is not expedient

Where there is a breach of planning control but it is not considered expedient to take enforcement action, for reasons of probity, recommendations must be presented to the Development Control Manager or Head of Service, before the case can be closed.

Where a decision is made to close these types of case, the Council will not normally write to the developer to say that enforcement action will not be taken because in most cases they would not be aware that a complaint had been made. In instances where the developer wishes to obtain a formal confirmation that the works are acceptable, they will be advised to apply for planning permission or a Certificate of Lawfulness of an Existing Use or Development (CLEUD), depending on the circumstances of the case.

6.3 Confirming works as “permitted development”

Further to investigations that have established works are “permitted development”, it is advisable to recommend that the owner of the property submits an application for a certificate of lawfulness for an existing use or development (CLEUD), although it is important to note that this type of application is not a requirement. A CLEUD provides formal confirmation from the Council that the development described in the application is lawful and does not require planning permission. A CLEUD often proves invaluable when selling a property but it must be kept in mind that it will normally take six to eight weeks to obtain a CLEUD decision notice.

6.4 Notifying complainants

Where an investigation has been resolved, the Council will inform the complainant of its intention to close the case, stating the reasons for doing so. This can be communicated by letter, email or by telephone.

7.0 Disclosure of information

7.1 Complainant Confidentiality

Complainant's details will not be disclosed during the investigation process. Complaints will be treated in strict confidence unless formal legal action is necessary. Should a case reach this stage, the identity of a complainant will not be revealed without their prior written agreement. In some circumstances the party under investigation will have strong suspicions about the identity of the complainant(s) but the Council will not comment on these. Anonymous allegations will not be investigated.

If there are enforcement matters at any time that have to be considered by the Planning Committee these will be considered during a closed session after the press and public have been asked to leave the meeting.

7.2 Personal information

All personal details of complainants are confidential and will not be passed outside of the Planning Enforcement Service / Development Control Team unless express consent is given. All personal information will be stored, handled and processed in accordance with the requirements of the Data Protection Act 1998.

7.3 Other information

The nature of planning enforcement work means that investigations may ultimately result in a prosecution. As such, it may sometimes be necessary to withhold certain information from both the complainants and the perpetrator. However the Council will always endeavour to provide as much information as possible, however the extent of information disclosed will inevitably vary from case to case. The Council will have regard to the requirements of the Freedom of Information Act 2000 in providing disclosures.

The Council is under a legal obligation to maintain a register of those properties which are, or have been, the subject of formal enforcement action, and to identify these in response to local searches.

It should also be noted that where an enforcement matter goes to appeal or court, complainants may be asked to provide evidence in person or by sworn statement to support the Councils case.

8.0 Monitoring of conditions

As well as investigating alleged breaches of planning control the Council will as resources permit, undertake pro-active monitoring of planning conditions. This will be achieved by monitoring a random sample of approved applications to ensure that the works are being carried out in accordance with the attached conditions.

9.0 Verbal/physical abuse towards officers

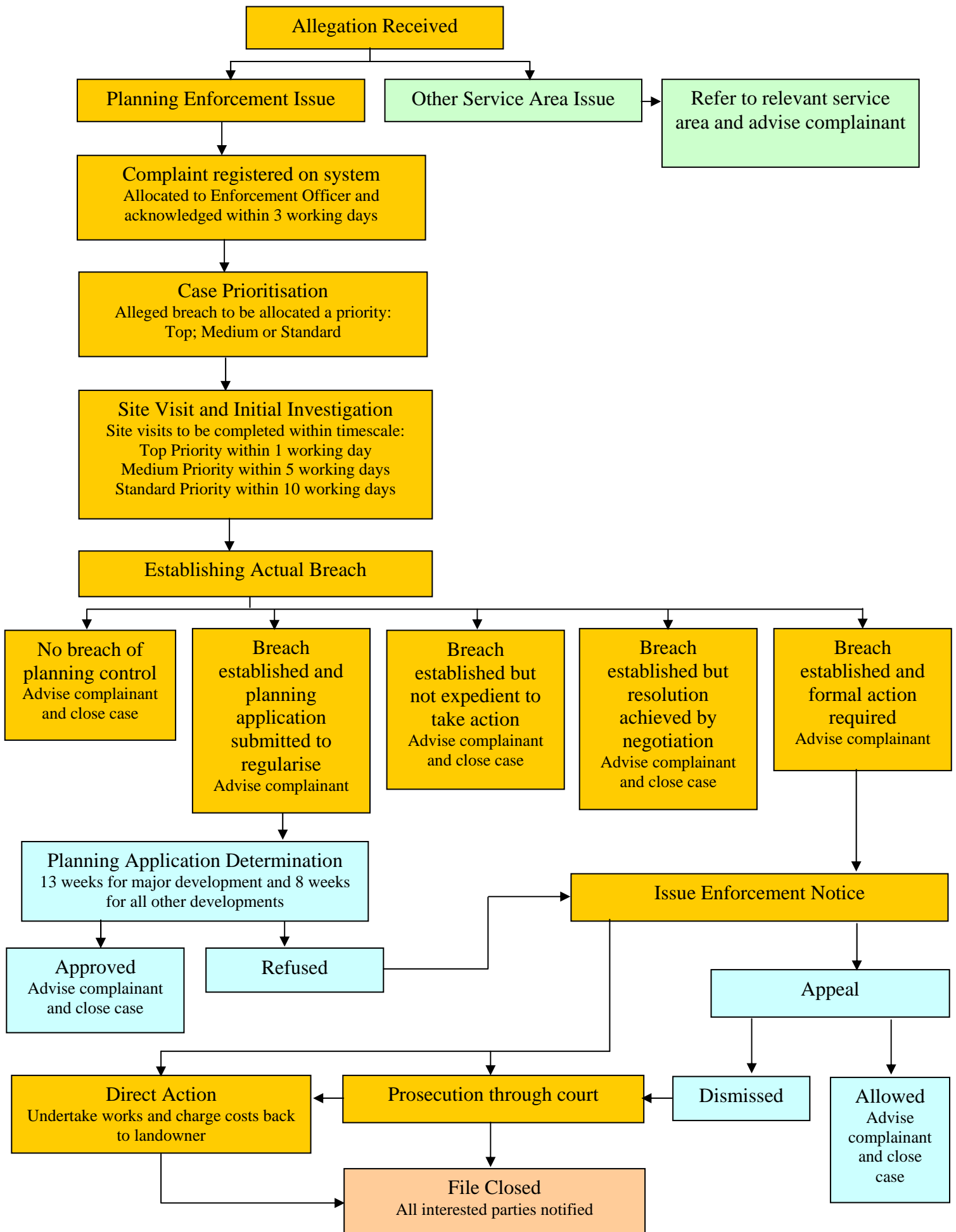
The Council is committed to ensuring that its officers are able to carry out their work safely and without fear of either verbal or physical abuse. The Council will not tolerate harassment, intimidation or violence against its officers and where appropriate will use legal action against the person(s) responsible.

10.0 Contacts

Planning contact details:

The Planning Department
Hinckley and Bosworth Borough Council
Council Offices
Argents Mead
Hinckley
Leics
LE10 1BZ
T: 01455 238141
E: [customer.services]@hinckley-bosworth.gov.uk
W. www.hinckley-bosworth.gov.uk/planning

Annex 1: The Enforcement Process



Annex 2: Types of Enforcement Action

Enforcement Action

The Town and Country Planning Act 1990 defines taking formal "enforcement action" as the issue of an enforcement notice or the service of a breach of conditions notice. Failure to comply with either constitutes an offence. There are also a number of supplementary powers granted to the Council as Local Planning Authority (LPA) that allow other types of notice to be served. Failure to comply with these notices is also an offence.

1. Enforcement Notices

If it is expedient to do so, an enforcement notice may be served where the LPA believes there has been a breach of planning control involving an unauthorised material change of use, operational development or breach of a condition. The enforcement notice will state the reasons for action being taken and specify the steps which the LPA require to be taken in order to remedy the breach. There is a right of appeal against an enforcement notice.

2. Breach of Condition Notices (BCN)

A BCN may be served where a condition attached to a planning permission is not being complied with. The BCN will specify the steps which the LPA require to be taken in order to secure compliance with the condition as is specified in the notice. There is no right of appeal against a BCN. Enforcement of a BCN is through the Courts.

3. Stop Notices

In certain cases, a stop notice can be served in order to cease an unauthorised activity on the land. A stop notice can only be served at the same time as, or after, the service of an enforcement notice. There is no right of appeal against a stop notice, only the enforcement notice to which it is attached. The LPA will be at risk of compensation if it is used in inappropriate cases.

4. Temporary Stop Notices (TSN)

In certain cases, a TSN can be served before an enforcement notice has been served in order to cease an unauthorised activity on the land. These notices remain in effect only for a maximum of 28 days.

5. Section 215 Notices

Where the condition of land or buildings is adversely affecting the amenity of the area, the LPA may serve a notice under s215 of the Town and Country Planning Act 1990 requiring the proper maintenance of land. The s215 Notice will specify the steps that the LPA require to be taken in order to remedy the condition of the land. There is a right of appeal in the Magistrates' Court against a s215 Notice.

6. Tree Replacement Notices

Where a protected tree is removed, uprooted, or destroyed without prior consent, the LPA can serve a tree replacement notice requiring, within a specified period, the replanting of a tree of a specified size and species. There is a right of appeal against a Tree Replacement Notice.

7. Planning Contravention Notices (PCN)

Where it appears as though there may have been a breach of planning control in respect of any land, the LPA may serve a PCN requiring information about activities on land. There is no right of appeal against a PCN and failure to respond is an offence which can be prosecuted through the Courts.

8. Section 330 Notices (Requisition for Information)

To enable the LPA to exercise other powers under the provisions of the Town and Country Planning Act 1990, the LPA may serve a notice under S330 requiring information as to interests in land, including ownership and occupation details. There is no right of appeal against a s330 Notice and failure to respond is an offence which can be prosecuted through the courts.

9. Discontinuance Notices

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 allows the LPA to serve a discontinuance notice against any advertisement, or the use of any advertisement site, which normally has the benefit of deemed or express consent. There is a right of appeal against a discontinuance notice.

10. Notice of Intended Entry

This notice is formal confirmation of the LPA's intention to enter land without a warrant. If entry to the land (or any part of it) is refused, that person obstructing the officers will be committing an offence and the LPA will obtain a warrant to gain entry. There is no right of appeal against a notice of intended entry.

Prosecution

The Council will consider commencing prosecution in the Courts against any person who has failed to comply with the requirement(s) of any of the above Notices where the date for compliance has passed and the requirements have not been complied with.

The Council will also consider commencing prosecution in the Courts where unauthorised works have been carried out to TPO trees or trees in a Conservation Area, as well as unauthorised works to listed buildings, demolition in a Conservation Area, advertisements or where the recipient of a Planning Contravention Notice or Requisition for Information has failed to provide a response within the prescribed time period or supplied false or misleading information.

Before commencing any legal proceedings the Council will be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest.

Injunction

Where an Enforcement Notice has not been complied with and a prosecution is not considered expedient or previous prosecution(s) have failed to remedy the breach of planning control, the Council will consider applying to the Court for an injunction. Such action will only normally be considered if the breach is particularly serious and is causing or likely to cause exceptional harm.

Direct Action

Where any steps required by an Enforcement Notice have not been taken within the compliance period (other than the discontinuance of the use of land), or where any steps required as part of a Section 215 (Untidy Land) notice have not been taken within the prescribed timescales, the Council will consider whether it is expedient to exercise its power under Section 178 and 219 of the Town and Country Planning Act 1990 (as amended) to: (a) enter the land and take the steps; and (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

Enforcement register

In accordance with section 188 of the Town and Country Planning Act 1990, the planning service holds a register of all enforcement notices, stop notices and breach of condition notices served in the Borough. This is available for inspection by the public. If you wish to arrange to view the register, please contact the planning enforcement service at the address below:

The Planning Department
Hinckley and Bosworth Borough Council
Council Offices
Argents Mead
Hinckley
Leics, LE10 1BZ
T: 01455 238141
E: [\[customer.services@hinckley-bosworth.gov.uk\]](mailto:customer.services@hinckley-bosworth.gov.uk)
W. www.hinckley-bosworth.gov.uk/planning

Annex 3: Service Standards

SERVICE STANDARDS*	STANDARD TARGET
Acknowledge allegation within 3 days of its receipt	100%
When a site visit is necessary, to conduct the visit within prescribed priority timescale	80%
Close file within 8 weeks where there is no breach of planning control	80%
Close file within 8 weeks where there is a breach of planning control but it is not expedient to take action	80%
Where breach established but suitable for submission of a retrospective application, require submission within 12 weeks	80%
Where breach established and formal action required seek authorisation within 12 weeks	80%
Serve Enforcement Notice within 28 days of instruction	90%
To check compliance, review file, determine next action and review date within 10 working days of compliance date on Enforcement Notice	90%
Where prosecution or injunction agreed, evidence to be provided to legal within 10 working days of agreement date for action	90%
After prosecution to review file and determine action within 14 days	90%
To reduce the number of formal complaints about the service	Reduce by 25%

** NB – all of the time periods identified are working days.*

Further copies, versions in alternative languages and larger print or audio versions

Further copies, versions in alternative languages and larger print or audio versions are available from the following address:

Strategy and Regeneration Team, Hinckley and Bosworth Borough Council, Argents Mead, Hinckley, Leicestershire, LE10 1BZ. Telephone: 01455 238141. Email: ldf@hinckley-bosworth.gov.uk

অন্যান্য ভাষায় অনুবাদ এবং বড় ছাপা অক্ষর বা অডিও'তে আরো কপি নিম্নের ঠিকানায় পাওয়া যায় :
Strategy and Regeneration Team, Hinckley and Bosworth Borough Council,
Argents Mead, Hinckley, Leicestershire, LE10 1BZ. টেলিফোন : 01455 238141. ই-মেইল :
ldf@hinckley-bosworth.gov.uk

બીજી ભાષાઓના ભાષાંતરમાં અને મોટા અક્ષરોમાં અથવા ઓડિઓના રૂપમાં વધારાની નકલો
નીચેના સરનામા ઉપર ઉપલબ્ધ છે: Strategy and Regeneration Team, Hinckley
and Bosworth Borough Council, Argents Mead, Hinckley, Leicestershire, LE10 1BZ.
ટેલિફોન: 01455 238141. ઈમેલ: ldf@hinckley-bosworth.gov.uk

ਦੂਸਰੀਆਂ ਭਾਸ਼ਾਵਾਂ ਵਿੱਚ ਅਨੁਵਾਦ ਅਤੇ ਵੱਡੇ ਅੱਖਰਾਂ ਵਿੱਚ ਛਾਪੇ ਜਾਂ ਆਡਿਓ ਦੇ ਰੂਪ ਵਿੱਚ ਅਤੇ ਹੋਰ ਕਾਪੀਆਂ
ਅੱਗੇ ਲਿਖੇ ਸਰਨਾਵੇਂ ਤੇ ਉਪਲੱਬਧ ਹਨ: Strategy and Regeneration Team, Hinckley
and Bosworth Borough Council, Argents Mead, Hinckley, Leicestershire, LE10 1BZ.
ਟੈਲੀਫੋਨ: 01455 238141. ਈਮੇਲ: ldf@hinckley-bosworth.gov.uk

متبادل زبانوں میں ترجمہ اور بڑے حروف یا آڈیو میں ترجمہ کی مزید کاپیاں درج ذیل پتے سے حاصل کی جاسکتی ہیں:

Strategy and Regeneration Team, Hinckley and Bosworth Borough Council,
Argents Mead, Hinckley, Leicestershire, LE10 1BZ.

ٹیلیفون: 01455 238141 ای میل: ldf@hinckley-bosworth.gov.uk

Dalsze kopie, wersie w innych jezykach i drukowane wiekszymi literami lub wersie audio
sa dostepne pod nastepujacym adresem: Strategy and Regeneration Team,
Hinckley and Bosworth Borough Council, Argents Mead, Hinckley, Leicestershire, LE10
1BZ. Telephone: 01455 238141. Email: ldf@hinckley-bosworth.gov.uk

PLANNING COMMITTEE – 21 JUNE 2011

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)
RE: RELAXATION OF PLANNING RULES FOR CHANGE OF USE FROM
COMMERCIAL TO RESIDENTIAL

1.0 PURPOSE OF REPORT

1.1 To advise Members of, and to seek Members agreement on the appended consultation response on the proposed changes regarding the relaxation of planning rules for change of use from commercial to residential, issued by the Department of Communities and Local Government in April 2011.

2.0 RECOMMENDATION

2.1 That Members:

- (i) note the content of the report; and
- (ii) agree the responses to the questions raised as detailed within this report.

3.0 BACKGROUND TO THE REPORT

3.1 This consultation paper sets out the Government's proposals to relax the planning rules for change of use from commercial to residential i.e. to allow such changes of use without the need for planning applications. The proposals stem from the Government's commitment to reform the planning system so that it supports economic growth and drives an increase in the supply of land for housing.

3.2 The review includes extending the freedoms available for changes of use between land uses that have similar impacts, whilst ensuring that planning and land use impacts are properly taken into account. The Government is proposing action on three fronts:

- To provide for the change from commercial (B use classes) to residential (C3 use class) without the need to apply for planning permission. This responds to the recognised and urgent need to increase housing supply at a national level and recognises the fact that, in general, housing is likely to have fewer wider land-use impacts than commercial uses.
- A call to local communities and local authorities to use imaginatively the powers they already have to relax planning constraints locally to target local issues, encourage development, support local economic strategies and make best use of existing properties.

- To remove unnecessary barriers to change of use through a wider review of how change of use and permitted development is managed within the planning system. This will include consideration of how the system could be liberalised in ways other than to promote housing supply.
- 3.3 Under the Town and Country Planning Act 1990, planning permission is usually required for material changes of use, what constitutes a material change of use is a matter of fact and degree, which is to be determined in each case by the local planning authority. Some uses are so similar in land use planning terms that it would be an unnecessary burden to require planning permission. As such the existing legislation excludes from the definition of development any change where both the existing and proposed use fall within the same use defined within the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 3.4 Uses fall within 4 main categories:
- Class A covers shops and other retail premises such as banks; and restaurants;
 - Class B covers offices, workshops, factories and warehouses
 - Class C covers residential uses such as dwellings; and residential care homes
 - Class D covers non residential institutions and assembly and leisure uses.
- In addition, there are some uses that fall within an individual class of their own, known as sui generis uses.
- 3.5 The Town and Country Planning (General Permitted Development) Order 1995 (as amended) grants permission for specified changes of use between some classes in the Use Class Order by classifying certain changes as permitted development.

4.0 **PROPOSALS FOR CHANGE**

- 4.1 In order to encourage economic growth by encouraging developers to bring redundant commercial property back into use the key proposal is to introduce permitted development rights to allow changes of use from B1 (business – offices, research and development premises and light industry) to C3 (dwelling houses) without the need for planning applications. In turn this will help tackle the need for more housing.
- 4.2 To broaden the scope of this freedom further the proposals also suggests that changes from B2 (general industrial) and B8 (storage and distribution) to C3 (dwelling houses) will also be permitted development; and proposes improvements to the current situation whereby it is possible to convert unused space above a shop into a flat.
- 4.3 It should be noted that the proposals only relate to changes of use, where any additional work to the exterior of a building or new build is proposed a planning application for operational development will still be required. The impact of the proposals, if implemented, would be reviewed after 3 years.

4.4 The proposals are sought at national level, however local authorities can grant permitted development rights through local development orders, and subject to the successful passage of the Localism Bill, neighbourhood development orders. Such local freedoms allow permitted development rights to be tailored to local circumstances and can encourage local growth.

5.0 **POLICY CONTEXT**

5.1 The proposals stem from evidence of the relative undersupply of land for housing compared to the supply of land for other uses and their respective land values. Land values for housing land are normally significantly greater than commercial land values. The price differential would not be so significant if the market, and planning policy, responded to the signals and provided more land for those uses that are more valuable. The Government considers that more freedom to change between uses would better enable the market to adjust over time, to provide more land for housing and thereby reduce its value. Statistics show that in total, the change of use of existing buildings accounts for 10% of total housing supply, raising the question of whether this can be increased further.

5.2 In addition, vacancy rates demonstrate that often there is a mismatch in the supply of land for different uses relative to the demand for those uses. Whilst it is accepted within the proposals that the property market will need a certain level of vacancies in each sector it is estimated that a vacancy rate of around 5% would be acceptable. Higher vacancy rates in the commercial sector suggests that changes of use from commercial to housing could be accommodated with limited impact in terms of increasing commercial rents.

6.0 **BENEFITS FROM THE PROPOSALS**

6.1 Central Government suggests that through the Localism Bill, the proposals for neighbourhood planning will strengthen the scope for communities to influence their areas. The benefits that the Government believes will come from the proposals to relax the change of use legislation include:

- Reduction in unnecessary regulation
- Good quality proposals are not delayed by the planning system
- Encourage developers to bring forward more housing proposals
- Better use of buildings that are no longer needed and/or suitable for their original purpose

6.2 It is considered within the proposals that buildings in B1 use will lend themselves to conversion to housing without extensive external works. Furthermore, the impact on others arising from such a change is likely to be similar or less than the impacts arising from the existing use.

6.3 The proposals also consider allowing change of use from B2 and B8 to residential uses without planning permission. Such uses vary widely in terms of their characteristics and location and in some instances it may not be suitable for residential development. However, there will also be many instances where

there are no barriers to allowing change of use from either B2 or B8 to C3. The Government's proposals state that "the market will make sensible decisions about where land classified as B2 and B8 is and is not suitable for residential development – homes in unsuitable locations will clearly be much harder to sell". Furthermore, it notes that even where the change of use does not require consent a change to residential is likely to result in operational development where planning permission would be required.

- 6.4 The Government has estimated that including these use classes in the proposed permitted development rights could double the number of dwellings available from B classes change of developments to around 14,000 per year.
- 6.5 The proposal allows the land use to revert to its original B use class within 5 years of having changed in order to ensure success in market terms.
- 6.6 The consultation document raises 3 questions about the principle of the proposal:

QA *Do you support the principle of the Government's proposal to grant permitted development rights to change use from B1 (business) to C3 (dwelling houses) subject to effective measures being put in place to mitigate the risk of homes being built in unsuitable locations? Please give your reasons.*

It is considered that there would be benefits in this especially as B1 uses tend to be smaller in scale and therefore more easily adaptable. However, is there a risk of the loss of smaller business units to residential that would have higher land value and therefore would be more preferable to the landowner. This would potentially have an adverse impact upon the local economy.

QB *Do you support the principle of granting permitted development rights to change use from B2 (general industrial) and B8 (storage and distribution) to C3 (dwelling houses) subject to effective measures being put in place to mitigate the risk of homes being built in unsuitable locations? Please give your reasons.*

Such changes are not considered to be such a good idea – the effective measures are unknown and yet pertinent in answering this question. The consultation document suggests the market would decide where and what is sensible. This is questionable and again could potentially impact on the employment land supply within an area. It may also potentially lead to abuse if employment premises in suitable areas are converted and then pressure is brought to bear to provide employment uses in unsuitable areas to meet a demonstrable need previously met in converted premises.

QC *Do you agree that these proposals should also include a provision which allows land to revert to its previous use within five years of a change?*

Yes, but how would it be monitored. Measures would need to be in place to notify authorities when a residential use commences so that the authority would know if it was within 5 years and whether it was initially a B use.

6.7 In addition, to the changes for 'B' uses; the proposals seek changes to unused space above shops and other town centre uses which could be converted to residential. The current legislation permits change of use from A1 (shops) and A2 (financial and professional services) to a mixed use of A1 or A2 plus a single flat respectively. The proposals seek greater residential use which extend the current permitted development rights to allow for a mixed use incorporating more than one flat. The consultation paper again states "while there may be instances where it is not suitable to have residential use above shops (e.g. due to amenity issues relating to noise), as in other areas the market is able to determine this". As such the proposals seek to extend existing permitted development rights to allow conversion of such space to incorporate more than one flat. A further question is asked in relation to extension of current permitted development as follows?

QD *Do you think it would be appropriate to extend the current permitted development rights outlined here to allow for more than one flat? If so should there be an upper limit?*

Yes, as the provision already permits one flat the increase in number of units would not alter the potential impacts but could benefit housing supply numbers and improve the vitality and viability of a town or city. However there should be an upper limit to ensure large numbers of residential units are not created that impact upon local services without any mechanism for contributions to such services to be made.

7.0 **ISSUES ARISING FROM THE PROPOSALS**

7.1 Whilst the Government considers there is need to extend permitted development rights in order to provide greater housing supply, it is also keen to ensure all potential impacts and unintended consequences are taken account of. When development falls within the category of permitted development the consideration of a range of planning issues is lost as is the opportunity to impose conditions. However the Government believes that it will be possible to frame a permitted development right which will provide sufficient safeguards against undue undesirable impacts. The consultation paper identifies the possible adverse impacts of the proposals and a range of possible mitigation measures. The degree in which any of the measures is applied in the final proposal will be informed by the consultation responses and the Government's assessment of the extent of any possible land use impacts.

7.2 Impact on amenity, services and housing mix

Proposals could make a significant contribution to the amenity of an area through regeneration however, communities may be concerned about the potential for the loss of important local commercial premises; or the lack of local services in their areas. In addition, local authorities will have policies relating to housing mix within their areas. Such issues would normally be addressed through the planning process, the proposals would not enable this to happen and therefore it is proposed that such consideration could occur through other action by the local authority or the developer on a voluntary basis following discussion with the neighbourhood. The incentive to developers would be that their development was more attractive to buyers, but there would be no obligation on them to provide for these additional outcomes in bringing forward a scheme.

7.3 Loss of commercial land and property and the impact on areas with high residential values

Whilst evidence on vacancy rates points to a clear oversupply of commercial land in certain areas, there may be a small number of localised instances where vacancy rates in commercial property are low. In such instances the proposals may have an effect on the level of commercial rents but the Government believes this would be minor. There may be areas where there is high demand for both commercial and residential property, but the market will attach a higher value to residential use which could act as an incentive for owners to consider change of use of economically viable and prosperous commercial uses to residential use. To the extent that this results in a more efficient use of land, with price signals indicating relative scarcity, this represents an efficient outcome. However the Government recognises that such an impact may, on occasion, have risks regarding, for example, housing mix.

The proposals could lead to greater housing development taking place on existing sites thereby reducing pressure on Greenfield sites. It could also provide opportunity for areas to benefit from a larger residential population which could support local shops and community organisations. However, the loss of commercial uses in villages and the conversion of commercial buildings on farms to residential may cause concern for local residents.

7.4 Transport and parking

New residential development can impact upon local parking provision and access arrangements. These impacts may be greater or lesser than those for the commercial use. Removing the requirement to submit planning applications would, unless an appropriate mitigation measure was implemented, remove any obligation for the developer to address transport and parking impacts and would remove the opportunity for the local authority to ensure that they are addressed.

7.5 Noise

The noise generated by residential units can have a different impact to that generated by commercial use. It may for instance create noise impacts during the evening and early morning when commercial premises are generally quiet. However, it may also, in many cases, result in lower noise levels, for instance if the previous use was light industrial. It is difficult to identify a specific pattern of noise impact which would emerge from these changes. However, if the impacts were higher than the previous use there may be other routes for dealing with problems that arise, such as through environmental health legislation.

7.6 Site location impacts

Some B class uses (particularly B2) may have characteristics that reduce their acceptability as housing sites. Examples of this could include the presence of contaminated land or hazardous substances, or a higher level of flood risk than would generally be acceptable for housing (commercial uses can accept a higher risk). There is also a possibility that replacement of industrial development with housing could create 'bad neighbour' situations for adjoining activities, leading to a call for tighter environmental or operational controls to be placed on existing surrounding activities.

7.7 The consultation document asks a question regarding these issues, as follows:

QE ***Do you agree that we have identified the full range of possible issues which might emerge as a result of these proposals? Are you aware of any further impacts that may need to be taken into account? Please give details.***

Not sure the loss of commercial use has been properly considered. Nor have issues of impact on neighbouring amenity through overlooking – residential uses can lead to a different period of use thereby resulting in presence on site in evening and weekends which could impact upon neighbours. In addition, if we have a business park with B1 uses and units get changed to residential, it is likely to impact upon the character of the business park and could make it less desirable for business, likewise if a B1 business park has residential mixed in it would be very unlikely that a B2 use would be considered favourably within the park due to impact on residential amenity, however a B2 use within a purely B1 park may be okay. On a mixed use park of B1, B2 and B8 if a use changed to residential future occupiers may complain about noise etc of adjacent uses to the detriment of those businesses. There is also a concern that permitted development residential units will not be assessed against Development Plan policies in relation to design, amenity, garden space, open space and other relevant issues. This could lead to two classes and standards of residential development which may harm existing residents and the character of an area as well as residents of converted properties.

The identified issues predominantly focus upon the impacts of the proposal as they relate to development management. However, it is

considered the changes to the use class order could also have implications on the preparation and implementation of planning policy, which are detailed below.

Housing quality, need and mix

Existing housing provision, in line with Core Strategy, should meet a local need in relation mix, type and tenure. It is considered that a developer determining housing mix on a voluntary basis would not necessarily ensure that the right mix, type and tenure of housing were developed.

There is a concern that without adequate control over the type of housing being provided and the demographic being provided for, the proposal may result in an imbalance between housing type and tenure, which could result in the highest returns being favored over housing which would help meet identified local needs. There is an apprehension regarding the suitability of B class premises to provide larger family homes with gardens and parking provision and that B class premises may lend themselves more readily to flats.

In addition without an adequate monitoring mechanism the level and type of housing being provided may not be adequately recorded. This may have implications on the provision of accurate and up-to-date information on housing supply in the Borough.

Conversions without the prior consent of the planning authority could also lead to a missed opportunity for affordable housing provision.

Monitoring and implications for plan production

The existing level of housing provision and employment premises are both monitored through planning approvals and evidence base documents, which inform plan production such as the Site Allocations Development Plan Document. If the authority is unaware of the additional numbers of households being created, or employment premises and land being lost, this may have implications on the accurate assessment of local needs in relation to services and facilities, open space, additional housing requirements and employment requirements. This could necessitate the need to commission additional and more frequent studies to compensate for the loss of in-house data. The preparation of these assessments would require the input of specialist consultants. and would therefore have financial and resource implications for the Authority.

Pressures on local services, facilities and infrastructure

The creation of additional households without the Authority having prior knowledge may have implications on local service provision and infrastructure if appropriate measures are not in place to mitigate the impact of development. The creation of new dwellings usually requires a

developer contribution toward the additional pressures on local services and infrastructure. However, under this proposal it appears a developer would not be required to fulfill this obligation, other than voluntarily. This has the potential to place unmanaged stresses on local services, especially in the rural areas. It appears unlikely a developer would choose to contribute to improved service and infrastructure provision and reduce their profit margins on a voluntary basis alone.

In addition, it is unclear whether the New Homes Bonus and any future Community Infrastructure Levy would apply to conversions under this proposal.

Housing in rural areas

The adopted Core Strategy provides minimum housing figures, in the case of rural areas, derived to maintain population levels in the settlements up to the plan period. Whilst these figures are minimums, a developer is required to demonstrate a local need for the additional housing above the minimum figure. This proposal could negate this requirement and create a loop-hole.

The conversion of employment land and premises in the rural areas could lead to a level of unplanned growth in population which goes beyond that identified to sustain rural populations. This would be contrary to the Core Strategy and has the potential to alter the composition and character of rural settlements. In addition without developer contributions toward enhanced services and infrastructure this could lead to a growing population without adequately meeting their needs.

Sustainability

Currently new residential developments are required to meet certain sustainability targets in their design and construction through an adopted Core Strategy policy. This policy could not be applied to a permitted change of use from commercial to residential, unless through a series of prescribed conditions which could be difficult to enforce.

Building regulations could provide a solution to this issue, however any local policy requiring sustainability measures above that prescribed in building regulations could not reasonably be applied.

In addition the potential reduction of employment space, especially in rural areas, (where it maybe difficult to replace) could lead to an increased need for residents to travel further afield to work. This would be considered an unsustainable approach and increase commuter out-flows from the Borough, of which there is already an existing disparity.

8.0 **OPTIONS TO ADDRESS POSSIBLE IMPACTS OF THE PROPOSALS**

8.1 The Town and County Planning (General Permitted Development) Order 1995 (as amended) allows a wide range of development, many parts of the Order are subject to conditions and prior approval regimes. In addition, the Order allows for a local planning authority to issue an article 4 direction which can withdraw permitted development rights in respect of a specific development or in respect of a particular class of development in a defined area.

8.2 The Government considers that without undermining the purpose of the policy changes there will be scope to minimise the likelihood of significant undesirable outcomes. As such the consultation paper sets out four tools which could be used individually or in combination to address concerns identified. The four tools are set out below:

8.3 Conditions and prior approval

Standard conditions could be attached to the permitted development rights, such conditions could be:

- associated with a prior approval mechanism whereby the local authority assesses whether the condition has been met before the permitted development rights are granted; or
- based on self-certification i.e. the developer satisfies themselves that they have complied with the condition before taking advantage of the permitted development right.

An example of such is provided, a developer could be required to prepare a travel plan for consideration by the local authority by prior approval before permitted development rights would be granted. Other impacts such as noise could be mitigated in a similar way.

8.4 Thresholds and exclusions

Whilst the proposals are to be made nationally, the Government is proposing to exclude certain types of development as they raise issues requiring further considerations. The exclusions include:

- listed buildings and scheduled monuments
- safety hazard zones
- development where an environmental impact assessment is required
- development on land affected by contamination

In addition, the changes could be restricted by a threshold, for example, a threshold could be the number of dwellings being created or could be set at the level where an Environment Impact Assessment is required. Thresholds could be set that protect larger buildings that accommodate companies that employ large numbers of local people that may be adversely affected by unchecked

permitted change of use. A size threshold could also be beneficial in areas where a local authority's local plans prioritise employment areas. The Government does, however, recognise that thresholds would add complexity and limit the extent to which the housing supply objective was achieved and would run the risk of being subject to abuse.

8.5 Article 4 directions

This provision exists currently and allows for local authorities to remove the nationally set permitted development right and require planning applications for such development. Where a local authority has made an article 4 direction they may be liable to pay compensation where a planning application is refused or granted subject to conditions. Section 189 of the 2008 Planning Act introduced compensation provisions in the event of an article 4 direction being made if the application is made within 12 months of the direction coming into force and subsequently refused or granted subject to restrictive conditions. It also provides that if a local authority gives at least 12 months notice in advance of the withdrawal of the permitted development right, compensation will not be payable.

As the intention behind these proposals is to provide an immediate boost to the housing supply the Government is minded to not apply the provisions in section 189 of the Act to this permitted development. This however would be conditional on ensuring that it was possible to design the permitted development right nationally in a manner that addressed any significant adverse impacts. However, the Government wishes to hear if the use of article 4 directions in specific circumstances would help address particular planning impacts.

8.6 Availability of commercial land

The analysis that underpins these proposals suggests that it would be unlikely to significantly impact upon the availability of commercial land or commercial rents. The Government believes that the net effect of these wider reforms will be to increase the availability of commercial land rather than to reduce it. Where there are localised instances where there is a significant and unacceptable loss of commercial land, the Government believes that the use of local development orders to allow for change of use from C use classes to B use classes is the right way to proceed. However, it welcomes views on the principle of liberalisation on a national basis from C3 use (dwelling houses) to certain B use classes. If such a change is needed the Government will consider it in greater detail in the forthcoming review of the Use Classes Order.

8.7 A number of questions are raised about the possible ways to mitigate impacts, as follows:

Q.F Do you think that there is a requirement for mitigation of potential adverse impacts arising from these proposals and for which potential mitigations do you think the potential benefits are likely to exceed the potential costs?

Yes there is a requirement for mitigation particularly around the loss of commercial use and impact upon employment land and premises supply within an area.

Q.G Can you identify any further mitigation options that could be used?

No

Q.H How, if at all, do you think any of the mitigation options could best be deployed?

The use of conditions and prior approval would be effective, timescales for prior approval however should be appropriate, if a prior approval was needed for a transport plan a short time period (28days) for determination would not be appropriate as the Local Planning Authority is dependant upon statutory consultees to offer advice therefore the prior approval determination period should still be 8 weeks.

The use of thresholds and exclusions would be less resource intensive for LPAs but guidance would need to be clear in order to avoid mis-interpretation and flouting of regulations leading to enforcement complaints.

Q.I What is your view on whether the reduced compensation provisions associated with the use of article 4 directions contained within section 189 of the Planning Act 2008 should or should not be applied? Please give your reasons.

It is not considered that the compensation provisions should be applied in this instance as the changes could result in problem areas for local planning authorities particularly around the protection of local employment and the use of Article 4 Directions may be the only way to protect the local economy, therefore for the Local Planning Authority to be liable to compensation would be unjust.

Q.J Do you consider there is any justification for considering a national policy to allow change of use from C to certain B use classes? Please give your reasons.

This could support small local businesses however the same issues would apply in respect of impact upon neighbouring amenity and impact upon housing numbers etc.

Q.K Are there any further comments or suggestions you wish to make?

*What controls would there be on the quality of housing?
Impact upon enforcement needs to be considered and recognised.
How will it be known a change of use has occurred for monitoring purposes and at what time the change occurred?*

Once a change of use has occurred at what stage will the occupants benefit from permitted development rights for residential properties. And if work is carried out under residential permitted development would it mean the property is then exempt from reverting back to a B use within 5 years.

9.0 FINANCIAL IMPLICATIONS [CB]

There are no financial implications arising directly from this report. Should the Government go ahead with their proposal this could potentially mean a reduction in income where applications for change of use are no longer required. However, there were no applicable applications received in 2010/11 so any reduction should not be significant.

10.0 LEGAL IMPLICATIONS [MR]

10.1 Set out in the report

11.0 CORPORATE PLAN IMPLICATIONS

11.1 This document contributes towards Strategic Aims 2 and 4 of the Corporate Plan.

12.0 CONSULTATION

12.1 The appended response is on behalf of this Authority. Neighbouring Authorities and other agencies can respond independently should they wish.

13.0 RISK IMPLICATIONS

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

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

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Loss of income from S106 contributions leading to pressures on services	recommend that residential conversions are subject to the same requirements as non permitted development residential properties	Simon Wood
Loss of employment land	Monitor conversions and loss of employment	Simon Wood

PLANNING COMMITTEE - 21 JUNE 2011

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)
RE: "PLANNING FOR TRAVELLERS SITES" CONSULTATION DOCUMENT

1. PURPOSE OF REPORT

1. To notify Planning Committee of the "Planning for Travellers Sites" Consultation Document published by Community & Local Government (CLG) in April 2011.
2. To seek Planning Committee's agreement to submit Appendix 1 as this Council's response to the "Planning for Travellers Sites" Consultation document. The deadline for responses to CLG is 6 July 2011.

2. RECOMMENDATION

1. That Planning Committee notes the changes proposed by the "Planning for Travellers Sites" Consultation document.
2. That Planning Committee agrees Appendix 1 as this Council's response to the Consultation document.
3. That Planning Committee supports the need for a locally based Traveller Needs Assessment which takes into account the extensive numbers of traveller pitches already sited within the Borough.

3. BACKGROUND TO THE REPORT

The current guidance for the provision of Gypsy and Traveller sites is contained within 2 documents:

Circular 01/2006: Planning for Gypsy and Traveller Caravan Sites and
Circular 04/2007: Planning for Travelling Showpeople.

On 29th August 2010 the Government announced its' intention to withdraw these documents as it was felt that they had not been effective in securing provision of sites for the Gypsy, Traveller and Travelling Showpeople communities. They will be replaced by a single shorter, simpler Planning Policy Document to cover provision for all these groups. The Planning Policy Document covers both planning and enforcement issues relating to the gypsy and traveller communities, and is intended to address the perceptions that the gypsy and traveller community are treated differently to the settled community in respect to planning matters.

The consultation proposals are to be read in conjunction with the government's stated intention to return power to elected bodies and to give communities a greater role in shaping their neighbourhoods.

The government's intention is to give LPAs the freedom and responsibility to determine the level of traveller provision in their area in consultation with local communities whilst ensuring fairness in the planning system.

The government's stated key policy commitments are;

- a) to include traveller sites in the New Homes Bonus Scheme to incentivise LPAs to provide appropriate sites.
- b) to resume traveller site grant funding from April 2011
- c) to set up a cross-Government ministerial-level working group to address the discrimination and poor social outcomes experienced by traveller communities
- d) to bring LA traveller sites into the Mobile Homes Act 1983 to give resident travellers improved protection against eviction
- e) to contribute funding to Local Government Improvement and Development to support their programme of work with elected members on traveller site provision
- f) to limit the opportunities for retrospective planning applications in relation to any form of development
- g) to provide stronger enforcement powers for LPAs to tackle breaches of planning control
- h) to abolish undemocratic regional strategies and the top-down housing and traveller pitch targets they contain

The document breaks down the government's objectives into two elements;

- a) to have a fair, light-touch policy that puts provision into the hands of elected local councils, and
- b) to consolidate and streamline the relevant circulars.

The stated aims of the proposed policy are to:

- a) enable LPAs to make their own assessment of need for the purposes of planning
- b) enable LPAs to use their assessment of need to set their own targets for pitch provision
- c) encourage LPAs to plan for sites over a reasonable period
- d) protect Green Belt from development
- e) ensure that LPAs working collaboratively develop fair and effective strategies to meet need through identification of land for sites
- f) promote more private traveller provision while recognising there will always be those travellers who cannot provide their own sites
- g) reduce number of unauthorised developments and make enforcement more effective
- h) ensure that development plan includes fair realistic and inclusive policies
- i) increase the number of traveller sites in appropriate locations with planning permission to address underprovision and maintain appropriate level of supply
- j) reduce tensions between settled and traveller communities in plan-making and planning decisions
- k) enable provision of suitable accommodation from which travellers can access education and other services

The key points covered in the "Planning for Travellers Sites" consultation document are as follows:

- The document will use a definition of "traveller" for planning purposes, which will cover gypsies, travellers and travelling show people. It refers to those with specific land use requirements arising from their current or past nomadic way of life and is not an ethnic or cultural definition.

- The requirement to complete Gypsy and Traveller Accommodation Needs Assessments will be withdrawn. Instead, local authorities will be required to set their own evidence based targets for the provision of pitches/ plots. There is no further guidance on how the evidence base shall be determined.
- Development on Green Belt land will be treated in the same way whether planning applications are made by travellers or the settled community.
- There will be a requirement for LPAs to engage with settled and traveller communities when formulating plans and determining planning applications.
- Local planning authorities will be asked to plan for a five year supply of traveller pitches and plots. Failure to demonstrate a five year supply will require local planning authorities to “treat favourably” applications for temporary permission.
- Local Planning authorities will be given 6 months to put the five year land supply into place before the requirement to treat applications favourably will come into force.

The policy aims are set out in the consultation document but there is little detail on how those aims are to be achieved. Contradictions in the aims are picked up in the draft responses to consultation questions set out in appendix 1. There are opportunities and weaknesses relating to the introduction of a five year land supply for traveller sites. Some of the weaknesses of its introduction may be mitigated by a more realistic time frame for introducing the requirement for a five year land supply.

4. **FINANCIAL IMPLICATIONS [CB]**

There are no financial implications arising directly from this report. However, should the Gypsy and Traveller SPD need to be updated in the future then there could be potentially associated costs at that point.

5. **LEGAL IMPLICATIONS [MR]**

Set out in the report.

6. **CORPORATE PLAN IMPLICATIONS**

This report supports the following aims of the Corporate Plan 2009 – 2014:

- Cleaner & greener neighbourhoods
- Thriving economy
- Safer and healthier borough
- Strong and distinctive communities
- Decent, well managed & affordable housing

7. **CONSULTATION**

Comments have been sought from Planning Policy Officers, Development Control Officers and Legal Services.

8. **RISK IMPLICATIONS**

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

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

The following significant risks associated with this report / decisions were identified from this assessment:

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Failure to respond to the consultation document may lead to the adoption of the "Planning for Traveller Sites" document without addressing the concerns outlined in this report regarding the requirement to have a Five Year Land Supply and the timescales for its' introduction.	A robust response to the consultation document giving reasons and alternatives where possible to the document.	Valerie Bunting

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

Consultation will impact both urban and rural areas of the Borough, since the provision of land for gypsy and traveller sites may be allocated in both urban and rural areas.

This report specifically relates to the gypsy, traveller and travelling showpeople communities. The aim of the Consultation Document is to bring policies relating to this group in line with mainstream planning policy relating to housing.

10. **CORPORATE IMPLICATIONS**

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

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

Background papers: Planning for Traveller Sites Consultation

Appendices: Appendix 1: Planning for Traveller Sites Consultation Form

Contact Officer: Valerie Bunting x5612

Appendix 1

Planning for Traveller Sites – The consultation questions

- 1 *Do you agree that the current definitions of “gypsies and travellers” and “travelling showpeople” should be retained in the new policy?*

It is not felt that the definition has been contested so there is no issue with its retention.

The consultation paper does not explain what it sees as the advantages of the proposed changes, or what disadvantages or issues have arisen from the current definition.

- 2 *Do you support the proposal to remove specific reference to Gypsy and Traveller Accommodation Needs Assessments in the new policy and instead refer to a “robust evidence base”?*

The use of “robust evidence base” is rather general and could give rise to ambiguity in how needs are assessed and to non-relevant information being raised. The proposal is likely to lead to challenges to local targets. The current guidance makes the requirement for assessment clear and should be retained. It also allows for consistency of approach across different local authority areas.

Theoretically, the law appears to be sound, and the proposed changes may theoretically, appear to be sound, but the practical position and the practical difficulties are not easily solvable and simply blaming everything on the regional planning structure and asserting that LPAs setting their own targets will be a panacea to the problems is not helpful without more guidance on and consideration of the issues.

- 3 *Do you agree that where need has been identified, local planning authorities should set targets for the provision of sites in their local planning policies?*

Yes. It is unclear what other baseline could be used when planning for local context.

- 4 *Do you think that local planning authorities should plan for “local need in the context of historical demand”?*

The consultation paper acknowledges that there is underprovision and it is not clear how the proposals will help to overcome that underprovision. The practical difficulties of assessing and designating sites will not be solved simply by a requirement that LPAs must have a 5-year supply of pitches. That ability is available in principle under existing provisions and is not easy to achieve currently.

There needs to be a robust mechanism for assessing need and identifying pitches which LPAs can follow. Distinction should be made between “need” and “demand”.

- 5 *Do you agree with the proposal to require local planning authorities to plan for a five-year supply of traveller pitches/plots?*

A five year supply of land would give local authorities much stronger controls to refuse applications. However securing a five year land supply could be problematic and lead to unsuitable sites being chosen to fulfil the quota. Without a five year land supply it would be difficult to refuse applications and be open to challenge.

See also response to question 4.

- 6 *Do you agree that the proposed wording of Policy E (in the draft policy) should be included to ensure consistency with Planning Policy Guidance 2: Green Belts?*

Agreed. Consistency is needed with all forms of residential development and it is currently too ambiguous, particularly if the government's stated intention is fairness in the planning system. If the word 'normally' is to be removed from the wording in 01/2006, then the provision re gypsy sites in Green Belts would be more tightly drawn than in PPG2 which qualifies the general presumption by the use of the additional phrase that development in Green Belts should not be approved 'except in exceptional circumstances'

- 7 *Do you agree with the general principle of aligning planning policy on traveller sites more closely with that on other forms of housing?*

Yes. But it must still be recognised that there are differences.

- 8 *Do you agree with the new emphasis on local planning authorities consulting with settled communities as well as traveller communities when formulating their plans and determining individual planning applications to help improve relations between the communities?*

It is unclear on what basis the consultation would be made. It would not be useful to consult on the evidence base which establishes the need for sites. It is not felt that consultation would help to deliver more sites and could lead to conflict of opinion between the settled and travelling community which could be counter productive. However, it is acknowledged that greater local dialogue is to be welcomed as productive.

- 9 *Do you agree with the proposal in the transitional arrangements policy (paragraph 26 in the draft policy) for local planning authorities to "consider favourably" planning applications for the grant of temporary permission if they cannot demonstrate an up-to-date five-year supply of deliverable traveller sites, to ensure consistency with Planning Policy Statement 3: Housing?*

Suggest the wording could be changed to read "to consider favourably alongside all other material considerations". However note also the comments made in response to question 5.

- 10 *Under the transitional arrangements, do you think that six months is the right time local planning authorities should be given to put in place their five-year land supply before the consequences of not having done so come into force?*

No. It would not give enough time for the LPA to put a DPD in place. The only way to achieve this deadline would be to approve applications, which could lead to development in inappropriate locations. The transitional period needs to be longer and the LPA will need to ensure sites are allocated as soon as possible as the LPA could be challenged at the end of the transitional period. This is also much too short a timescale to consult meaningfully, especially with a hard to reach group. We suggest a minimum of one year.

A fundamental difficulty is the lack of guidance on the factors/ mechanisms / type of evidence to be used to determine local targets.

- 11 *Do you have any other comments on the transitional arrangements?*

No.

12 *Are there any other ways in which the policy can be made clearer, shorter or more accessible?*

No comments.

13 *Do you think that the proposals in this draft statement will have a differential impact, either positive or negative, on people because of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation? If so, how in your view should we respond? We are particularly interested in any impacts on (Romany) Gypsies and (Irish) Travellers and welcome the views of organisations and individuals with specific relevant expertise. (A draft Equalities Impact Assessment can be found at Annex C.)*

No comments.

General comments.

There needs to be clarity on whether references to green belt include green wedges as part of this guidance. Otherwise it may cause confusion when applications are received.

Paragraph 2.9

It needs to be clear which communities will be consulted when determining the level of provision. How will any conflict between the views of the settled communities and travelling communities be resolved?

Paragraph 2.10

There need to be checks and balances on cross boundary working to ensure that one local authority does not take a disproportionate level of sites.

Paragraph 22 of the Draft Planning Policy Statement.

Further guidance is needed on the statement "some rural areas may be acceptable for some forms of traveller sites". The wording is too vague to be meaningful and can be easily challenged.

PLANNING COMMITTEE – 21 JUNE 2011

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

1. **PURPOSE OF REPORT**

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

2. **RECOMMENDATION**

That the report be noted.

3. **BACKGROUND TO THE REPORT**

Appeals Lodged

None

Appeals Withdrawn

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

Appeals Determined

Appeal by Primesight Ltd. against the refusal of advertising consent (10/00678/ADV) for 1 No. Internally Illuminated Pole Mounted Display Unit at Eastwoods Service Station, Ashby Road, Stapleton

In relation to this appeal, the Planning Inspector considered the main issue to be the effect of the advertisement on the visual character of its semi-rural and residential surroundings on Ashby Road.

The totem sign achieves a considerable degree of prominence in its own right due to the height of its pole and its location on the inside of a slight curve in the A447 to the extent that the panel disrupts the view from the north and south. In these circumstances and given the relatively intense effect of fluorescent tube illumination, its visual impact was perceived by the Planning Inspectors to be inappropriately excessive for this countryside location close to dwellings.

Based on the above observations, the Planning Inspector concludes that the subject display is harmful to the visual character of its surroundings and detrimental to the amenity of the immediate area. As a result it does not accord with policies BE1 and NE5 of the Local Plan.

Inspectors Decision

Appeal dismissed (delegated decision)

Appeal by Mr Ian Maclean on behalf of Morris Homes (East) Limited against the refusal of outline planning permission (10/00408/OUT) for residential development (access only) on Land at Hinckley Road, Stoke Golding

The main concern at the appeal stage related to whether there was a lack of local housing need sufficient to warrant a scheme on a Greenfield site. It was put forward to the Planning Inspector that the provision of dwellings significantly in excess of locally derived housing requirements did not accord with the housing objectives and spatial vision for the area contrary to the advice in PPS3, policy 11 of the Core Strategy and 'saved' policy RES5.

However, it was agreed according to the Planning Inspector that a 5 year supply of deliverable housing sites does not exist and for this very reason alone it was accepted that favourable consideration should be given to the scheme.

From what was put forward to the Planning Inspector, it was considered that this specific case turned on whether:

- i) there is a shortfall in housing land supply to warrant the proposal
- ii) the scheme would undermine the planned housing objectives, the spatial vision for the area, or wider policy aims
- iii) the proposal would damage the character of the village, the appearance of the countryside or any feature that ought to be preserved.

There were differences in the level of shortfall of housing land supply recognised by the council and appellant that was 4 years and 3.4 years, respectively. After detailed considerations it was estimated there is a shortfall equivalent to 600-650 dwellings, representing a supply of deliverable sites for about 3.6 or 3.7 years. In the Planning Inspectors view, all those figures represent a significant dearth in the 5-year supply sought.

The Planning Inspector highlighted the important role of the Core Strategy which was found sound on the basis that the Council has adopted a process to meet the housing land supply requirements of PPS3 even though the housing trajectory encompasses early annual shortfalls only to be made good after 2017 due to the accumulation of contributions from the SUEs at Earl Shilton and Barwell.

This suggested to the Planning Inspector that an inherent feature of the Strategy is an acceptance that shortfalls in the supply of housing land that occur early on in the plan period (as is the existing situation) can be made good later on in the plan period, provided appropriate monitoring and delivery mechanisms are in place. The inspector acknowledged the extent and resources currently being devoted to the preparations of an Area Action Plan, together with masterplans for the SUE to be monitored through the AMR, housing trajectory and five year housing supply and should the designated SUE not deliver there are options in place to rectify the issue.

Although the clear absence of a 5-year supply of deliverable housing sites must warrant favourable consideration for the appeal proposal, the Inspector was of the opinion that such consideration should be tempered with the

realisation not only that the Strategy adopted here renders an early shortfall more likely, but also that the Strategy itself entails the means to address that very defect.

The Planning Inspector then refers to the spatial vision section of the Core Strategy where the clear focus is to concentrate most new residential development in and around the urban core of Hinckley including the SUE locations with more limited development in the rural areas. Stoke Golding is identified as one of 9 key rural centres and specifically as a place where development is intended to support local services and to maintain rural population levels.

After the Planning Inspector took into consideration the recent planning permission for 59 dwellings at the Convent site, this proposal would practically double the contribution from Stoke Golding to the overall housing provision. By itself this as considered by the Planning Inspector to have a modest impact on distribution however it could have damaging consequences for the Strategy if replicated in other rural settlements where Greenfield and rural becomes a preference over Brownfield and urban.

The Planning Inspector noted the Spatial Vision is one of 'maintaining' rather than 'growing' population levels in 'key rural settlements'. For this reason the Planning Inspector was of the opinion that the scheme would undermine the Core Strategy as it conflicts with the policy setting out the spatial vision for Stoke Golding.

The Planning Inspector then had regard to the site and its location within Stoke Golding. The site fared favourably in the eyes of the Planning Inspector who thought that the indicative layout would offer the potential of a high quality development well integrated with the pattern and form of the village and the surrounding landscape. In summary the Planning considered that the proposal would not seriously damage the character of the village, the appearance of the countryside or any feature that ought to be preserved.

With regards to other matters whilst the proposal would provide a modest reduction of the shortfall of rural affordable housing this should not be used to undermine the urban focus of the Strategy. Similarly the contributions were considered to meet the tests set out in the CIL Regulations which was considered to be a quality of this scheme. However the quality of the proposal did not outweigh its damaging implications for the Core Strategy.

In summary, the Planning Inspector considered this scheme would undermine the Core Strategy and conflict with the policy setting out the spatial vision for Stoke Golding to the extent that the absence of a 5-year supply of housing land was insufficiently compelling to warrant favourable consideration for the councils decision to be overturned.

Inspectors Decision

Appeal dismissed (committee decision)

4. **FINANCIAL IMPLICATIONS**

5. **LEGAL IMPLICATIONS**

None MR

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 - 21 JUNE 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: 10.06.11

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
11/00012/FTPP	LF	11/00010/FUL	WR	Ms Dawn Stevens	64 Barrie Road Hinckley	<i>Start Date</i> 3rd Party Notification Questionnaire	09.06.11 16.06.11 16.06.11
11/00011/VCON	EM	11/00108/CONDIT	WR	Mr Cemic Yavuz	11 Windsor Street Burbage	<i>Start Date</i> Statement of Case Final Comments	03.05.11 14.06.11 05.07.11
11/00010/PP	RW	10/00799/FUL	WR	Christopher Harbot	Rear of 132-136 Main Street Markfield	<i>Start Date</i> Awaiting Decision	05.04.11
11/00009/PP	EM	10/00908/FUL	WR	Mr Jogi Singh	The Pantry 102 Rugby Road Hinckley	Start Date Awaiting Decision	29.03.11
11/00002/PP	JH	10/00661/OUT	PI	Flude Family Settlement 2004	Land Adjacent to Hinckley Golf Course Leicester Road Hinckley	<i>Start Date</i> Public Inquiry (4 days)	02.02.11 14-17.06.11
10/00011/PP	RW	09/00915/OUT	PI	Mr John Knapp	26/28 Britannia Road Burbage	<i>Start Date</i> 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	<i>Start Date</i> Statement of Case Public Inquiry (4 days) Temporarily Suspended	06.11.09 On hold pending JR

Decisions Received

11/00007/ADV	LF	10/00678/ADV	WR	Primesight Ltd	Eastwoods Service Station Ashby Road Stapleton	DISMISSED	13.05.11
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Rolling 1 April 2011 - 20 May 2011

Planning

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision		
					Allow	Spt	Dis	Allow	Spt	Dis
6	0	3	0	3	0	0	3	0	0	0

Enforcement

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn