

Date: 11 July 2011

**To: All Members of the Planning Committee**

Mr DM Gould (Chairman)	Mrs WA Hall
Mr R Mayne (Vice-Chairman)	Mr J Moore
Mr RG Allen	Mr K Nichols
Mr JG Bannister	Mr LJP O'Shea
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, 19 July 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

Becky Owen  
Democratic Services Officer

**PLANNING COMMITTEE**  
**19 JULY 2011**  
**A G E N D A**

1. APOLOGIES AND SUBSTITUTIONS

RESOLVED

2. MINUTES

To confirm the minutes of the meeting held on 22 June 2011, attached marked 'P13'.

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 'P14' (pages 1 – 112).

RESOLVED

8. APPEALS LODGED AND DETERMINED

Report of the Deputy Chief Executive (Community Direction) attached marked 'P15' (pages 113 – 114).

RESOLVED

9. APPEALS PROGRESS

Report of the Deputy Chief Executive (Community Direction) attached marked 'P16' (pages 115 – 117).

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

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

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL**

**PLANNING COMMITTEE**

**21 JUNE 2011 AT 6.30 PM**

**PRESENT:** MR R MAYNE - VICE-CHAIRMAN (in the Chair)

Mr R Allen, Mr PR Batty, Mr DC Bill, Mr CW Boothby, Mrs T Chastney, Mr WJ Crooks, Mrs L Hodgkins, Mr MS Hulbert, Mr MR Lay, Mr J Moore, Mr K Nichols, Mr BE Sutton, Miss DM Taylor, Mr R Ward and Ms BM Witherford.

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

**21 CHAIRMAN & VICE-CHAIRMAN FOR THIS MEETING**

In the absence of the Chairman, Mr Mayne took the Chair for this meeting. He requested that a member of the Committee sit in the Vice-Chair's seat. On the motion of Mr Mayne, seconded by Mr Lay, it was

**RESOLVED** – Mr Nichols take the Vice-Chair's seat for this meeting only.

**22 APOLOGIES**

Apologies for absence were submitted on behalf of Mr JG Bannister, Mr DM Gould and Mrs WA Hall with the following substitutions authorised in accordance with Council Procedure Rule 4.1:

Mrs Hodgkins for Mr Bannister  
Mr Hulbert for Mrs Hall.

**23 MINUTES (P6)**

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

**RESOLVED** – the minutes of the meeting held on 24 May 2011 be confirmed and signed by the Chairman.

**24 DECLARATIONS OF INTEREST**

No interests were declared at this stage.

**25 DECISIONS DELEGATED AT PREVIOUS MEETING**

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

11/00004/FUL – it was reported that the decision had been issued on 26 May.

26 TOWN AND COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED (P7)

The Committee considered a schedule of planning applications, together with a list of late items, and the recommendations of the Deputy Chief Executive (Community Direction).

- (a) 11/00406/DEEM – Change of use from class B1 offices to class D1 consulting / treatment rooms, Florence House, St Marys Road, Hinckley – Hinckley & Bosworth Borough Council

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

- (b) 11/00271/FUL – Change of use from butchers to retail and assembly of kitchen units and office, erection of outbuildings and creation of first floor living accommodation, 62 Castle Street, Hinckley – Mr Roy Hartley

In response to Members' concern regarding privacy of the neighbours, officers agreed to ensure steps were taken to control as much as possible within building regulations the glazing and fixing of windows in the living accommodation.

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

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

Mr Bray left the meeting at 7.07pm.

- (c) 11/00363/CON – Demolition of garage, 67 Stockwell Head, Hinckley – Mr Roy Hartley

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

RESOLVED – Conservation Area Consent be granted subject to the conditions contained in the officer's report.

- (d) 11/00029/OUT – Residential Development (outline – access only), Land south of Newbold Road / Manor Road Junction, Desford – Hallam Land Management Ltd

The Head of Planning reported additional amendments to the reasons for refusal – namely the inclusion of NE5 and RES5 as reasons for refusal and an amendment to the terms of the Section 106 Agreement.

Some Members expressed disappointment that the application was recommended for refusal when there had been little objection to the proposals and when it would provide additional housing to meet need. It was acknowledged that the target date for determining the application had already passed.

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

RESOLVED – the application be deferred to allow for further discussions with the applicant.

- (e) 11/00219/REM – Erection of 59 dwellings (siting, appearance, layout and landscaping), St Martins Convent, Hinckley Road, Stoke Golding – Mr Mark Horsley

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

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

Mr Batty left the meeting at 8.13pm.

- (f) 11/00287/FUL – Erection of agricultural building, Shackerstone Barns, Wharf Farm, Station Road, Shackerstone – The Crown Estate

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

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

Mr Batty returned at 8.15pm.

- (g) 11/00402/COU – Retrospective change of use from A1 (delicatessen) to A3 (café) including outbuilding, Peppercorn Cottage, 8 Market Place, Market Bosworth – Mr Raymond Fudge

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

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

Mrs Hodgkins and Miss Taylor left the meeting at 8.37pm.

- (h) 11/00270/FUL – Extension and alterations to club house, Bagworth Community Centre, Station Road, Bagworth – Mr John Sinfield

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

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

- (i) 11/00290/FUL – Erection of agricultural building, Snowdene Farm, Main Street, Botcheston – Mr Richard Cobley

Concern was expressed with regard to the accuracy of the stated acreage of the site. It was agreed that if found to be inaccurate it would be delegated to the Chairman / Vice-Chairman to make the final decision.

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

RESOLVED – members be minded to permit the application subject to no new material objections being received prior to the expiry of the consultation period on 28 June 2011 and the conditions contained in the officer's report. Should any details with regard to the acreage change, the final decision be delegated to the Chairman / Vice-Chairman.

- (j) 11/00365/COUL – Change of use of land from open space to residential curtilage (5 metre strip) and erection of fencing, Land adj 50 Forest Rise, Groby – Mr Peter Dean

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

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

Mrs Hodgkins and Miss Taylor returned to the meeting at 8.39pm.

27 ENFORCEMENT PROTOCOL (P8)

Members were informed of the proposed enforcement protocol for use in the delivery of the development control service. It was acknowledged that the report omitted information on how to deal with enforcement issues brought to committee but then refused. It was agreed that this would be added.

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

RESOLVED –

- (i) the content of the report be noted with the abovementioned addition;
- (ii) the measures and procedures set out in the enforcement protocol for use in the delivery of an effective customer focussed enforcement service be agreed.

28 RELAXATION OF PLANNING RULES FOR CHANGE OF USE FROM COMMERCIAL TO RESIDENTIAL (P9)

Members were presented with a draft consultation response to 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.

Members felt that this was not positive news for rural communities, but that many concerns had been covered in the officer's response. Members also felt that whilst building regulations were still in place, there was still a risk of unsuitable premises being changed into residential units. Officers agreed to ensure this was addressed in the response.

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

RESOLVED – the report be noted and response agreed with the abovementioned points taken into consideration.

29 “PLANNING FOR TRAVELLERS SITES” CONSULTATION DOCUMENT

Members were informed of the above consultation document and their support was sought. Concern was expressed with regard to the number of sites just outside of the Borough boundary which could not be counted towards this authority’s figures, and officers agreed that all sites which impact on the Borough should be considered.

Mr Ward left the meeting at 8.54pm and returned at 8.57pm.

Further concern was expressed with regard to the methodologies used in the past having caused problems, the number of temporary sites which had become permanent, and the fact that local authorities would be required to set their own evidence-based targets for the provision of pitches/plots, but that no guidance on the type and amount of evidence required would be provided.

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

RESOLVED – the report and recommendations be endorsed and the Executive be RECOMMENDED to approve the response.

30 APPEALS LODGED AND DETERMINED (P11)

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

RESOLVED – the report be noted.

31 APPEALS – PROGRESS (P12)

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

RESOLVED – the report be noted.

(The meeting closed at 9.12pm)



**REPORT P14**

**PLANNING COMMITTEE**

**19 July 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 - 19 July 2011 - NUMERIC INDEX**

<b>REF. NO.</b>	<b>APPLICANT</b>	<b>SITE</b>	<b>ITEM</b>	<b>PAGE</b>
11/00377/FUL	Mr C Price	Land Adj. Hissar House Farm Leicester Road Hinckley	01	02
11/00329/FUL	Mr P Hilyer	Park House Farm Leicester Lane Desford	02	14
11/00334/EXT	Mr G Pearson	The Bungalow 47 Hinckley Road Burbage	03	37
11/00368/FUL	Taylor Wimpey UK Limited	Land Adjacent To Greyhound Stadium Nutts Lane Hinckley	04	50
11/00389/CLU	Mr & Mrs S Ansar	The Fishing Lodge Wallace Drive Groby	05	83
11/00423/FUL	Governors Of St Martins High School	St Martins Catholic School Hinckley Road Stoke Golding	06	88
11/00410/FUL	Mr Jonathan Sanders	Brascote Fields Farm Brascote Lane Newbold Verdon	07	94
11/00216/LBC	Hinckley & Bosworth Borough Council	Atkins Building Lower Bond Street Hinckley	08	100
11/00499/C	Mr Zeeshan Aslam	Land South Of Lindley Wood Fenn Lanes Fenny Drayton	09	106

**Item: 01**  
**Reference: 11/00377/FUL**  
**Applicant: Mr C Price**  
**Location: Land Adj. Hissar House Farm Leicester Road Hinckley**  
**Proposal: TRAVELLERS SITE FOR TWO PITCHES AND THE ERECTION OF A TOILET/LAUNDRY ROOM**  
**Target Date: 4 August 2011**

### **Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as there have been objections from more than 5 addresses.

### Application Proposal

This is a full application for the creation of two pitches and the erection of an amenity block for families that fall under the definition of a Gypsy for the purposes of Circular 01/2006 Planning for Gypsy and Traveller Caravan Sites.

The pitches will be sited fairly centrally and will be set back 23 metres from the highway. They will each have a footprint measuring 7 metres x 12 metres. The amenity block will be situated in the north eastern corner of the site. This will comprise a pitched roofed brick building having a footprint of 3.5 metres x 1.2 metres. Additional planting is proposed to screen and define the site.

This is a re-submission of previously withdrawn application 10/00994/FUL.

### The Site and Surrounding Area

The site is located on the eastern side of Leicester Road on the outskirts of Hinckley, opposite the Rugby Club.

The site is 1.25 hectares and currently comprises part of a larger 7 acre agricultural field also owned by the applicant. The site has a shared access with the adjacent smallholding to the south. The site is bounded to the road frontage by dense native hedgerow. The site is defined within the adopted local plan as Green Wedge. Further north east is Hissar House Farm with agricultural land bounding the site to the remaining elevations.

### Technical Document submitted with application

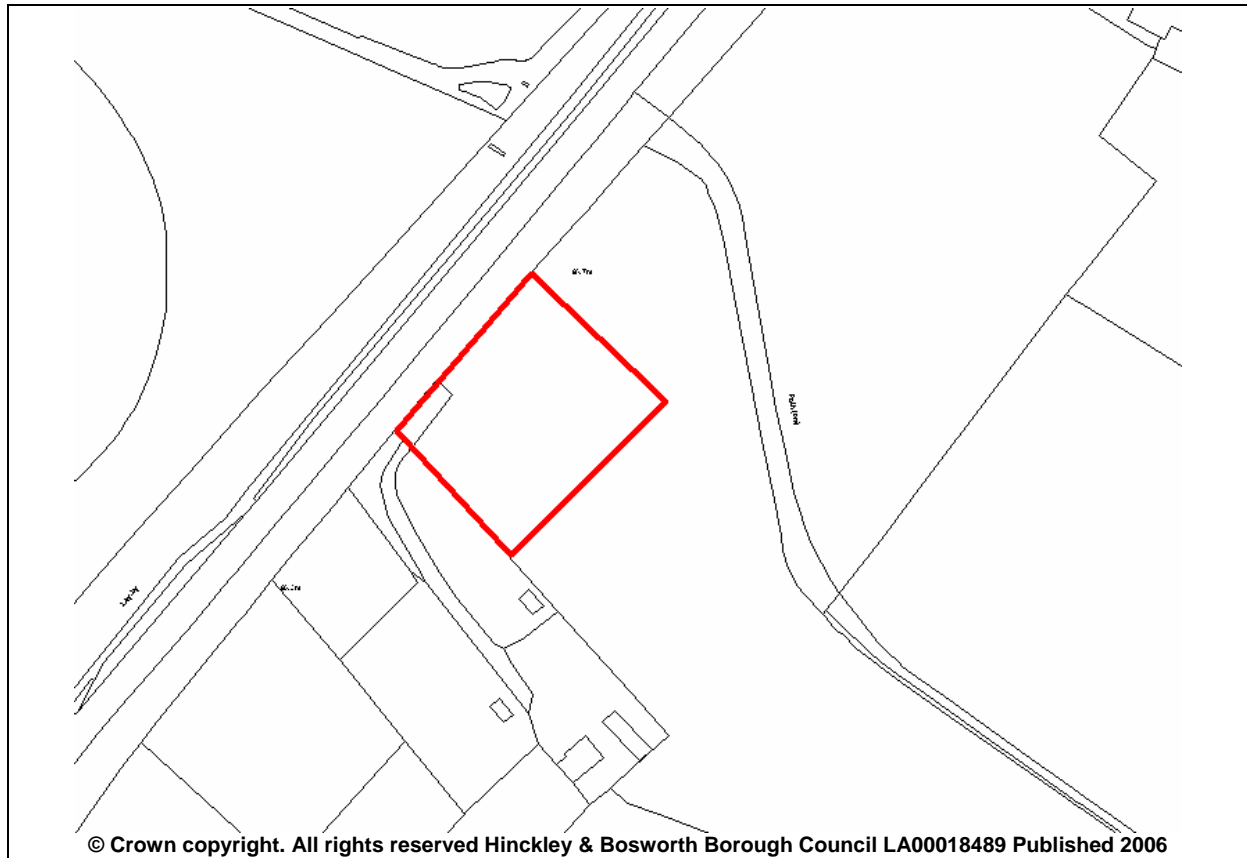
A Design and Access Statement has been submitted in support of the application. This states that the site is well screened and that additional screening is also proposed. It goes on that the site will require little alteration due to its existing access and that it is located within close proximity to a range of local services.

A Human Rights Legislation Questionnaire has been submitted which confirms the following:-

- a) Names and dates of birth of all intended occupiers of the site
- b) Schools and Nurseries attended
- c) Contact with Gypsy/Traveller education service
- d) Any special education needs
- e) Land ownership details
- f) Date of commencement of occupation of site
- g) Decision to occupy the site based upon
- h) Previous location occupied and reason(s) for leaving
- i) Past 5 years - all sites occupied and reasons for leaving with dates
- j) Applications to reside on council sites
- k) All site enquiries made
- l) Length of time to remain on intended site
- m) Future site locations
- n) Family associations within the locality and details
- o) Numbers of mobile homes/caravans/cars/vans/lorries on site
- p) Doctors details/specific medical conditions/hospitals being attended
- q) Confirmation of claim under Gypsy status as defined under Planning Guidance, and reasons
- r) Employment details
- s) It has been requested that the specific details relating to the above remain confidential as they contain personal details relating to the applicant and his family.

**History:-**

10/00994/FUL	Travellers site for 2 mobile homes and two transit Caravans and erection of a toilet/laundry room	Withdrawn	21.04.11
09/00405/UNUSE	The erection of new gates, hard surface and the use of buildings in connection with an engineering business. This was an anonymous complaint and the case was closed in October 2010 as it was not considered expedient to take enforcement action.		



**Consultations:-**

No objections received from:-

- The Director of Property Services (Gypsy Liaison)
- Environment Agency
- Blaby District Council
- Severn Trent Water Limited
- The Head of Community Services (Pollution Control)

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

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

Barwell Parish Council object to the application on the following grounds:-

- a) site is within a defied Green Wedge
- b) the site is badly sited
- c) there would be traffic from the football and rugby clubs on match days.

Five letters of objection have been received which state that information has been provided to local residents that there will be no further Traveller or Gypsy sites within Barwell Parish due to the existing Showman's site.

13 letters of neighbour objection have been received on the following grounds:-

- a) loss of Green Wedge land
- b) highway safety concerns on fast road and will lead to further congestion
- c) concerns that the site will escalate into a larger Travellers site
- d) concerns that there will be an accumulation of waste and scrap metal on site
- e) adverse impacts on Burbage Common
- f) temporary type of buildings applied for
- g) that the application was withdrawn and then a similar proposal re-submitted
- h) not in keeping with the character of the area
- i) destroys the separation/distinctive natures of three bordering communities
- j) will create a precedent for future destruction of the green wedge
- k) will destroy the visual amenity enjoyed by residents of the three bordering communities
- l) loss of habitats for wildlife
- m) land should be retained for agriculture
- n) the Carousel Park fulfilled Barwell's quota for Traveller provision
- o) how will rubbish collections on the site be managed?
- p) that the Borough and Parish Councils are not serving the peoples interests in respect of further Traveller provision
- q) no need for further development in this area
- r) why is this proposal being considered on Green Wedge Land?
- s) how will sewage be removed?
- t) will the footpath be protected?

At the time of writing the report, no comments have been received from Ramblers Association.

### **Policy:-**

#### Central Government Guidance

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

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

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

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

- a) recognise, protect and facilitate the traditional lifestyle of Gypsies and Travellers
- b) identify and make provision for the resultant land and accommodation requirements
- c) help or avoid Gypsies and Travellers becoming unintentionally homeless
- d) reflect the status of Gypsy and Traveller accommodation as a part of wider housing provision
- e) create and support sustainable, integrated communities where Gypsies and Travellers have equality of access to suitable accommodation, education, health and welfare provision, and where there is mutual respect between all communities for the rights and responsibilities of each community and individual

- f) promote more private Gypsy and Traveller site provision in appropriate locations through the planning system, while recognising that there will always be those who cannot provide their own sites
- g) underline the importance of assessing needs at regional and sub-regional level and for local authorities to develop strategies to ensure that needs are dealt with fairly and effectively
- h) ensure that Development Plan Documents include fair, realistic and inclusive policies to ensure identified need is dealt with fairly and effectively
- i) reduce the number of un-authorised encampments and developments and the conflict and controversy they cause and to make enforcement more effective where local authorities have complied with the guidance in this circular.

#### Circular 01/2006 position

The SoS announced on 29 August 2010 his intention to revoke Circular 01/2006. In light of the decision in the second CALA case, his intention to do so becomes a material consideration.

However, the weight to be given to this intention is a matter for the Committee to judge as the decision-maker.

In a recent appeal decision, the inspector considered these issues and concluded that circular 01/2006 remained extant and it was not known what would replace it or the timescale for its replacement. In the meantime he considered that the circular remained the principal source of advice on sites for Gypsies and Travellers.

He also considered that the circular's weight must be reduced as a result of the SoS's intention to revoke it but that the circular retained substantial weight.

The SoS in his consideration of the case said he gave less weight to the circular but did not clarify his position further.

The SoS published a consultation paper on 'Planning for traveller sites' and the end date for responses is 3rd August. A report was presented to the June Committee.

The circular remains extant and the Committee needs to take an informed decision on the weight to be given to its provisions given that there are as yet no firm or formal proposals to amend or revoke it.

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

#### Regional Policy Guidance

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.

### Local Development Framework Core Strategy 2009

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

Policy 20: Green Infrastructure, Hinckley/ Earl Shilton/Burbage Green Wedge seeks to maintain the green wedge between Hinckley and Barwell as it plays an important environmental and landscape protection role. It also looks to develop it into a large scale recreational asset to service the Sustainable Urban Extensions and residents living in North Hinckley.

### Hinckley and Bosworth Local Plan 2001

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

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

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

### Other Material Policy Guidance

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

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

The Guide states that it will not be possible to meet all aspects of this guidance in every respect on every site. Local authorities and registered social landlords will need to take decisions on design on a case by case basis, taking into account local circumstances such as the size, geographical and other characteristics of the site or prospective site and the



particular needs of the prospective residents and their families. In the case of small private site development there will be similarities but it should be recognised that those sites are designed to meet the individual and personal preferences of the owner and may contain elements which are not appropriate or popular for wider application in respect of social provision. It would not therefore be appropriate to use the good practice guidance in isolation to decide whether a private application for site development should or should not be given planning permission.

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

The Black and Minority Ethnic Communities Housing in the East Midlands: A Strategy for the Region, recommendation 8 states that ' It is imperative that local authorities make immediate progress in site identification to meet the needs of Gypsies and Travellers rather than relying on the development of policies through the local development framework.'

### **Appraisal:-**

Information has been submitted suggesting that the development is for a transit and residential site for Gypsy families, in accordance with the Circular definition, and the County Council Gypsy Liaison Officer has confirmed this. Based on this, the site is in accordance with the Circular definition. Therefore the issues for consideration are whether the needs of the gypsy families and the development satisfies the criteria of Core Strategy Policy 18 and Policy RES13 of the Adopted Hinckley and Bosworth Local Plan, the principle of development, effect on the countryside and the Green Wedge, neighbours issues and highway safety.

### Principle and Policy Considerations

The site proposed is situated within the open countryside and within an identified Green Wedge. Accordingly a proposal for further development within this area would normally be contrary to policies NE5 of the adopted Local Plan and Policy 20 of the Core Strategy, unacceptable in principle and so resisted. However as the application is for a travellers site, the needs of the proposed end users of the site must be weighed against the need to resist the development and protect the green wedge and the countryside.

### Gypsy and Traveller Need

The Leicestershire, Leicester and Rutland Gypsies and Travellers Accommodation Needs Assessment 2006-2016 identifies a need for 42 residential pitches for the period up until 2016 within the Borough, this figure has been adopted within the Core Strategy. Since the Accommodation Needs Assessment was adopted in April 2007, a total of four sites have received permanent planning permission within the Borough, two pitches at The Paddock, Higham on the Hill, one pitch at Stoke Lane Higham on the Hill, three permanent pitches and eight transit caravans at Hydes Lane, Hinckley and one pitch at Heath Road, Bagworth (allowed on appeal). Accordingly, the approval of these pitches has reduced the Borough Council's requirements to 35 permanent pitches. Furthermore, 10 temporary pitches have been allowed on appeal at the Good Friday site at Barlestone. Approval of this site for one family would go towards meeting the current shortfall in permanent sites. In addition the nearby Aston Firs Caravan Site, which is owned and managed by the County Council and provides accommodation for Gypsies and Travellers, is currently full with an extensive waiting list (16 families), also there are a number of families living on site that have grown up children who would like to start their own families with no where to move to.

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

#### Proximity to Settlement/Services

The application site is on Leicester Road which is located approximately 1.1km beyond the Hinckley settlement boundary and 2.4 km from the town centre. This is considered to be 'reasonable' and will provide accessibility to local services and facilities as required by the policy. Another consideration is scale of the site, the proposal is for 2 transit caravans which equates to 1 pitch, and 2 permanent pitches, giving a total of 3 pitches. It is considered that this is not excessive in terms of scale located close to Hinckley urban area.

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

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

#### Highway Safety

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

The Director of Environment and Transport (Highways) has no objections to the site proposed as there is an existing access to the site and the existing visibility is considered acceptable, thus the proposal is considered to have no adverse impacts in terms of highway safety and is therefore considered acceptable.

#### Sympathetic Assimilation, Green Wedge and Character of the Countryside

The site is situated within the Hinckley/ Barwell/Earl Shilton/ Burbage Green Wedge as outlined by Policy 20 of the Core Strategy and within the open countryside and subject to Policy NE5 of the Local Plan. Both of these policies are restrictive of new development within this area, with policy 20 seeking to maintain the green wedge as it is considered to play an important environmental and landscape protection role. Further the site is defined within the Landscape Character Assessment 2006 (LCA) which states that this area of land should be preserved, protected and enhanced. The area is also summarised as being a strategically significant landscape of high sensitivity located close to principal urban areas. This said, the need to protect the Green Wedge and Countryside must be weighed against the need to provide additional Gypsies and Travellers Accommodation. As identified by the figures included above, there is clearly a need for additional pitches within the borough. A Human Rights Legislation Questionnaire has been submitted which identifies the proposed end users of the site as two families, one having three young children, who have been displaced by the closure of the 'Bens Hut' site in Ratby and confirms that despite efforts made these families have found no permanent site on which to reside.

In respect of the specific 'need' for the site in question, the Human Rights Legislation Questionnaire submitted provides comprehensive details which justify the need for the site in

question. On balance, it is considered that the need for the pitches provided by this site outweighs the need to protect the Green Wedge.

The policy requires 'sympathetic assimilation' of such sites into their surroundings. The character of the site is rolling open countryside, bounded by a mature dense native hedgerow along the front boundary. Further landscaping has been proposed to define the site, which over time will help screen it from the surrounding countryside. Accordingly only fleeting views of the site will be available from the public highway and the surrounding open countryside and there will be no detrimental impacts in terms of visual amenity.

### Noise and Disturbance

There are no close residents to the site. The nearest dwelling is that at Hissar House Farm located approximately 40m from the site to the north east and is unlikely to be detrimentally affected by the development. Similarly, it is considered that users of Hinckley Rugby Club, situated opposite the site will not be significantly affected.

### Safe and Healthy Environment of Residents

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

The guide stipulates that essential services (mains water, electricity drainage and sanitation) should be available. Although the provision of the above services has not been specifically identified within the application, there is the capacity to provide these services within the site. Sewerage in this case is by a private system which will be subject to Building Regulations approval.

### Design and Layout

The guide goes on to say that sites of various sizes, layouts and pitch numbers operate successfully and work best when they take account of the size of the site and the needs and demographics of the families resident on them with the safety and protection of children in mind. The site has clear demarcation of its boundaries and has a gate to the access with Leicester Road. The permanent pitches proposed on this site are for extended family members and the guide makes reference to this as a positive approach and can be advantageous in making good use of small plots of land.

When assessing the proposal against the guide criteria, with reference to size and layout of sites, it suggests that consultation with the gypsy and traveller community should be undertaken. In this case this is a private site. The design of the site affords amenity space and some degree of privacy for the individual pitches whilst providing natural surveillance. The guidance suggests that smaller permanent pitches should have sufficient space for one large trailer, an amenity building, drying space and parking for at least one vehicle and goes on to say that amenity buildings for each pitch are essential. In this case an amenity block

providing a toilet and laundry facilities will be provided, which is considered acceptable. The 6 metre separation between each caravan is met on the current plan, as advised within the policy. The guidance for transit pitches is the same as for permanent pitches in most respects, it recommends that each transit pitch is of a size sufficient to accommodate two touring caravans, two parking spaces and private amenities. Although the specific siting of the transit pitches has not been denoted on the plan, the standards identified can be accommodated within the site. The proposal will require a separate site licence issued by Head of Community Services (Pollution) which will deal with this issue. The licence is an appropriate mechanism to secure satisfactory internal arrangements.

### Other Considerations

#### Sustainability

The proposed site is considered to be within a reasonable distance of the settlement providing accessibility to local services.

#### Neighbour Concerns

Concerns have been raised over the site escalating into a larger traveller's site. In respect of this, each application is considered on its own merits and this is not something which this application can control.

Concerns have been raised that there will be an accumulation of waste and scrap metal on site. This is not a material planning consideration and if occurs it will be dealt with by the Environmental Health Department.

The temporary nature of the buildings have been queried. The Council can not dictate the type of buildings applied for, and has to consider what has been applied for within the planning application submitted.

The impacts of the proposal on the surrounding countryside have been appraised, and specifically in respect of Burbage Common, the impacts are not considered material and do not warrant refusal of the application.

Concerns have been raised that the application has been withdrawn and re-submitted. It is the applicants right to do this and does not have any bearing on the outcome of the current application.

It has been verbally clarified by the Directorate of Chief Executive, LCC (Ecology) that the proposal will have no material impacts on the habitats of wildlife on the site.

Queries have been raised as to how rubbish on site will be collected from the site. Waste collections will be via Hinckley and Bosworth Borough Council refuse service.

In respect of the removal of foul sewage from the site, it is stated on the application forms that the site will be connected to the mains sewer.

Queries have been raised over the protection of the nearby footpath. The footpath will not be directly affected by the proposal due to its distance from the site. Therefore its protection can not be controlled as part of this application.

## Conclusions

On balance based on the submitted statement of need, the Human Rights Legislation Questionnaire and the requirement to provide Gypsy & Traveller Sites as identified within Policy 18 of the Core Strategy, the 'need' for the site in question is considered to outweigh the protection of the Green Wedge and the character of the Countryside and therefore in principal is considered acceptable. Further the proposal will not have a detrimental impact upon residential amenity or highway safety and is considered to meet the criteria of Policy 18 of the Core Strategy and be acceptable in terms of all material considerations. The proposal goes some way to meet an established need for transit and permanent provision within the Borough as identified within the Site Allocations Preferred Options Document and the aims of Circular 01/2006.

### **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 Circular 01/2006. Based on the submitted statement of need and the requirement to provide Gypsy & Traveller Sites as identified within Policy 18 of the Core Strategy, the 'need' for the site in question is considered to outweigh the protection of the Green Wedge and the character of the Countryside and therefore in principal is considered acceptable. Further the proposal will not have a detrimental impact upon residential amenity or highway safety and is considered to meet the criteria of Policy 18 of the Core Strategy and be acceptable in terms of all material considerations. The proposal goes some way to meet an established need for transit and permanent provision within the Borough and is in line with the aims of Circular 01/2006.

Hinckley and Bosworth Borough Council Core Strategy (2009):- Policies 18 and 20.

Hinckley and Bosworth Borough Council Local Plan (2001):- NE5, T5, RES13 and BE1.

- 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:- 'DCBLKPLN scale 1:500' 'DCOSPLAN', 'DCPLAN' received by the Local Planning Authority on the 20 June 2011.
- 3 The permanent and transit site hereby approved shall not be used by any persons other than gypsies and travellers as defined in paragraph 15 of ODPM Circular 01/2006.
- 4 No commercial activities shall take place on the land, including the storage of materials.
- 5 No additional caravans and/or mobile homes, as defined by the Caravan Sites and Control of Development Act 1960 and the Caravan and Sites Act 1968, other than those approved by this permission, whether for storage or human habitation shall be placed onto the land whether for temporary or permanent purposes without the prior written approval of the Local Planning Authority.

- 6 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:-
  - a) surfacing materials
  - b) planting plans (including existing planting (trees and hedgerow)
  - c) written specifications
  - d) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
  - e) implementation programme.
- 7 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 8 No burning of materials shall take place on the site at any time.
- 9 Before first use of the development hereby permitted, its access drive and any turning space shall be surfaced with a hard bound porous material (not loose aggregate) for a distance of at least 10 metres behind the highway boundary and shall be so maintained at all times.
- 10 Before first use of the development hereby permitted, the vehicular access to the site shall be provided with a 6 metre control radii on both sides.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 The site lies in an area within which the Local Planning Authority would not normally grant permission for residential development. To accord with Policy 18 of the Hinckley and Bosworth Core Strategy and Circular 01/2006.
- 4 To ensure that the use remains compatible with the surrounding area and to ensure compliance with Policy NE5 of the adopted Hinckley and Bosworth Local Plan.
- 5 For the avoidance of doubt and to ensure that the use remains compatible with the surrounding area, in compliance with Policy NE5 of the adopted Hinckley and Bosworth Local Plan and Circular 01/2006.
- 6&7 To enhance the appearance of the development to accord with policy BE1 and NE5 of the adopted Hinckley & Bosworth Local Plan.
- 8 To safeguard the amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 9 To reduce the possibility of deleterious material being deposited in the highway in accordance with Policy T5 of the adopted Local Plan.

- 10 To enable vehicles to enter and leave the highway in a slow and controlled manner, in the interests of highway safety and to afford easy access to the site and protect the free and safe passage of traffic in the public highway. To accord with Policy T5 of the adopted 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](http://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:** 02

**Reference:** 11/00329/FUL

**Applicant:** Mr P Hilyer

**Location:** Park House Farm Leicester Lane Desford Leicester Leicestershire

**Proposal:** ERECTION OF TWO WIND TURBINES INCLUDING ASSOCIATED TRANSFORMER AND CONTROL COMPOUNDS AND FORMATION OF ASSOCIATED INFRASTRUCTURE

**Target Date:** 7 July 2011

**Introduction:-**

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

Application Proposal

This application seeks full planning permission for the erection of two wind turbines and associated transformer and control buildings, together with associated infrastructure. The proposed wind turbines comprise of 2 x 2 bladed 250 kilowatt turbines with a rotor diameter of 32 metres giving an overall tip height of 71 metres. The wind turbines are proposed to be secured by guy ropes to a height of 55 metres which will also aid in the wind turbines being erected on the site. The proposed turbines have a rated capacity of 250 kilowatts, thereby giving an installed capacity of 500 kilowatts.

A pre fabricated control house measuring 3m x 3m is proposed at the base of each turbine together with a transformer compound measuring 4m x 3m.

### The Site and Surrounding Area

The application site is a large agricultural field which measures 360m x 130m, thereby giving an area of 93600 square metres. The land slopes sharply downhill from south to north towards Desford Lane. The field is bordered by low level hedging to a height of 1.5m. In the wider context the site is screened by industrial buildings and the railway embankment to the north and north east and by hedges and mature trees to the western and southern boundaries. The site is located 1.6km to the east of Desford, 1km to the west of Kirby Muxloe and 2km to the south west of Ratby.

The nearest residential properties to the site includes the applicant's dwelling at Park House farm located 360m to the west and the Bungalow located 520m to the west where the applicant's parents reside.

A public footpath runs through the site from east to west and is located 60m to the south of the most southerly of the two proposed wind turbines. The site is accessed from a tarmaced drive between Leicester Lane and Park House Farm and then via an unmade farm track from Park House Farm.

### Technical Documents submitted with application

The application is accompanied by a number of documents including an environmental report, a noise impact assessment, an ecological report and viewpoint analysis taking into account the potential impact of the proposed development on landscape character. The application is also accompanied by indicative zones of visibility which have been ascertained by using a computer based intervisibility package to create a Zone of Theoretical Visibility or ZTV. The purpose of these Zones of Theoretical Visibility is to provide an indicative picture of where the proposed wind turbines could be viewed from and is based on the topography of the land. A cumulative impact assessment and cumulative ZTV analysis was received on 14 June 2011.

The environmental report is supportive of the proposed development and provides a policy appraisal of all scales of planning policy to justify the development. It states that the need for the turbines is to produce a clean and renewable form of electricity production for the land owner, as the applicant is seeking to offset the carbon emissions of the farm and maintain its long-term sustainability. The particular site has been chosen as it is located sufficiently away from residential properties to minimise residential and ecological impacts. The proposed turbines will be connected directly into the national grid to minimise potential electrical losses.

The noise impact assessment provides an assessment of the noise generation from the proposed wind turbines and to assess compliance with the noise criteria set out in ETSU-R-97 Assessment and Rating of Noise from Wind Farms. The assessment concludes that the noise results at certain receptors (dwellings) don't exceed the absolute lower limits set out in ETSU-R-97.

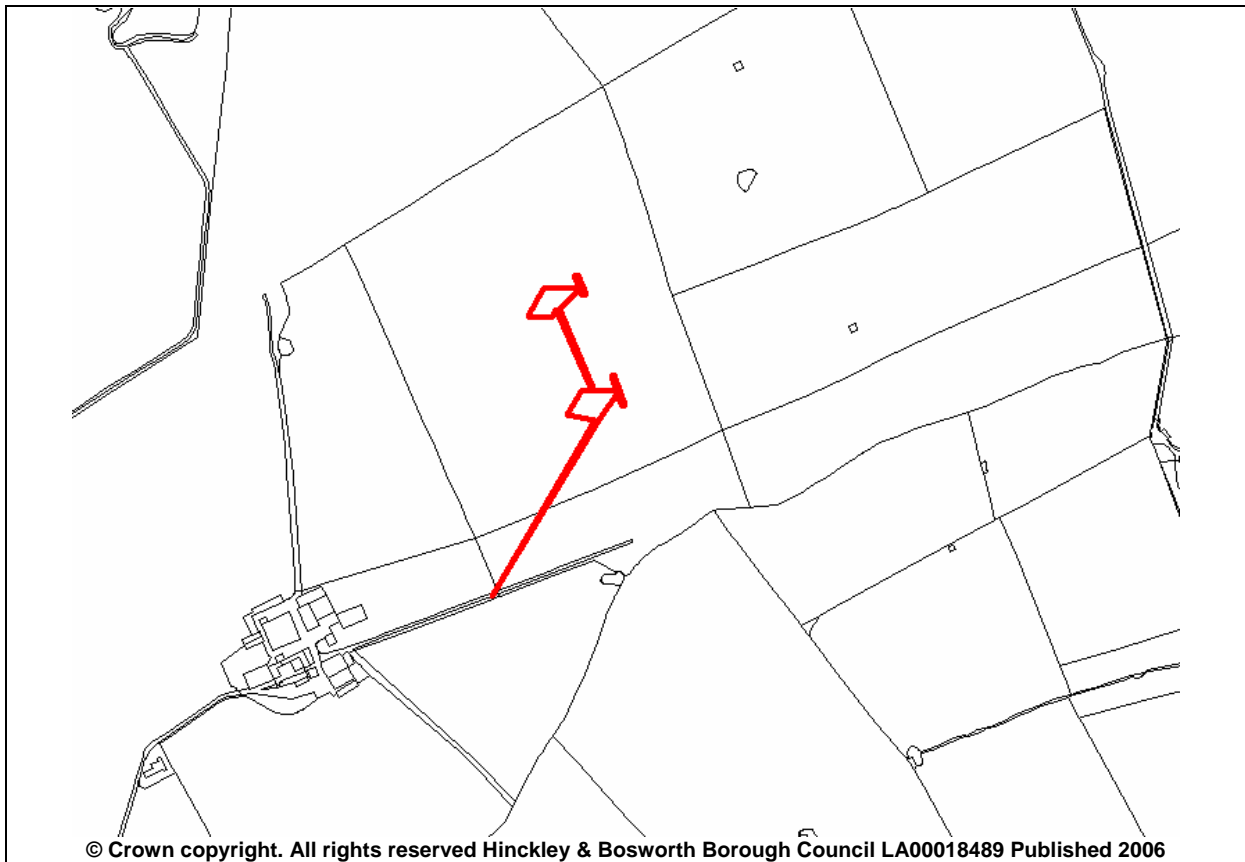
The ecological report identifies that there are habitats within a reasonable distance of the site that support protected species and puts forward relevant mitigation methods for dealing with bats and great crested newts. The report concludes that the site is of low ecological value and measures can be taken to discourage protected species from inhabiting the site close to the proposed wind turbines.



The cumulative impact assessment provides a desk based appraisal of the potential cumulative impacts of the proposed development and other wind energy schemes within a 25km radius of the application site. It concludes that the proposed wind turbines will be visible from most directions within a 5km radius of the site. Beyond this distance the visibility of the turbines reduces and this is largely influenced by topography. The area to the south and east of the site would have greater visibility of the proposed wind turbines due to the lower lying topography of the land.

**History:-**

00/00957/GDO	Erection of grain store	Approved	18.10.2000
94/00363/GDO	Agricultural building	Approved	19.05.2004



**Consultations:-**

No objection has been received from:-

- Environment Agency
- Severn Trent Water Ltd
- Western Power
- NERL Aviation Safeguarding
- Ratby Parish Council
- Head of Community Services (Land Drainage)

No objection subject to conditions has been received from:-

Director of Environment and Transport (Highways)  
Directorate of Chief Executive (Ecology)  
Ministry of Defence  
Natural England  
Head of Community Services (Pollution)

The Director of Environment and Transport (Rights of Way) comments that Turbine 1 is sited too close to footpath S2 and should be re-sited further to the north.

Blaby District Council have objected on the grounds of impact on the character and appearance of the countryside.

East Midlands Airport has no objection but raises concerns regarding cumulative impact of wind turbines and potential compromising of the safe control of aircraft.

Site notices and Press notice were displayed and neighbours notified. 6 letters of objection have been received raising the following concerns:-

- a) cumulative impact of development
- b) an environmental impact assessment should be undertaken
- c) noise generated by the wind turbines
- d) noise generation will be exacerbated by existing background noise from trains and traffic
- e) if allowed the development will set a precedent for further development of this nature
- f) the noise assessment should take account of the wider geographical area
- g) no information provided as to when and how long the turbines will operate for
- h) question raised about where the noise assessment was taken from
- i) anemometer readings have not been provided
- j) there are a number of factors which will inhibit the performance of the turbines
- k) question raised about the minimum separation distance between the turbines and occupied buildings in terms of noise
- l) question raised about whether a shadow flicker assessment has been undertaken
- m) impact of shadow flicker upon vulnerable residents at a residential care home in the locality
- n) consideration should be given to electromagnetic interference
- o) accuracy of noise assessment readings
- p) impact of noise will be exacerbated by seasonality and loss of tree cover
- q) electric cables may result in overhead lines being proposed
- r) turbines develop a screeching noise over time.

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

Desford Parish Council  
Ward Members.

### **Policy:-**

#### National Policy Guidance

Since entering into the Kyoto protocol the UK has been committed to reducing greenhouse emissions by 12.5% below 1990 levels by 2012. The UK has set targets to generate 10% of electricity from renewable energy sources by 2010 followed by 15% in 2015 and 20% by 2020. This is in addition to cutting carbon dioxide emissions by 60% by 2050. To achieve this Planning Policy Statement (PPS) 22, Renewable Energy has been published which requires

the planning system to actively promote renewable energy development. PPS 22 also provides detailed guidance for the consideration of renewable energy planning applications. Since the publication of PPS 22 regional planning guidance for the East Midlands has set challenging renewable energy targets for the East Midlands. The 2010 target for the East Midlands is set at 122 megawatts.

Planning Policy Statement 1 (PPS1): 'Delivering Sustainable Development' sets out the overarching planning policies on the delivery of sustainable development through the planning system. It explains that the Government is committed to protecting and enhancing the quality of the natural and historic environment, in both rural and urban areas. A high level of protection should be given to most valued townscapes and landscapes (paragraph 17):

'The Government is committed to protecting and enhancing the quality of the natural and historic environment, in both rural and urban areas. Planning policies should seek to protect and enhance quality, character and amenity value of the countryside and urban areas as a whole.'

At paragraph 18 it notes that: 'the condition of our surroundings has a direct impact on the quality of life and the conservation and improvement of the natural and built environment brings social and economic benefit for local communities.'

Paragraph 19 requires planning policies and decisions to 'be based on:-

- a) up-to-date information on the environmental characteristics of the area;
- b) the potential impacts, positive as well as negative, on the environment of development proposals (whether direct, indirect, cumulative, long term or short term); and
- c) recognition of the limits of the environment to accept further development without irreversible damage.'

The section adds that planning authorities should seek to enhance the environment as part of development proposals and that significant adverse impacts on the environment should be avoided and alternative options which might reduce or eliminate those impacts pursued.

Paragraph 20 recognises the need to consider both the effects of climate change and the protection of the wider countryside. In particular:

'- mitigation of the effects of, and adaptation to, climate change through the reduction of greenhouse gas emissions and the use of renewable energy; air quality and pollution; land contamination; the protection of groundwater from contamination; and noise and light pollution;

- the protection of the wider countryside and the impact of development on landscape quality; the conservation and enhancement of wildlife species and habitats and the promotion of biodiversity; the need to improve the built and natural environment in and around urban areas and rural settlements...'

At the same time it calls for a prudent use of natural resources and requires development plans to seek to promote and encourage, rather than restrict, the use of renewable resources (paragraph 22).

The supplement to PPS 1 – Planning and Climate Change (2007) sets out how planning should contribute to reducing emissions and stabilising climate change and take into account the unavoidable consequences. It advises that it does not seek to assemble all national planning policy relevant or applicable to climate change and should be read alongside the national PPS series. Where there is any difference in emphasis on climate change between

the policies in this PPS and others in the national series, this is intentional and this PPS takes precedence.

In relation to renewable and low carbon energy generation the supplement (at paragraphs 19 and 20) states:

19. In developing their core strategy and supporting local development documents, planning authorities should provide a framework that promotes and encourages renewable and low-carbon energy generation Policies should be designed to promote and not restrict renewable and low-carbon energy and supporting infrastructure.

20. In particular, planning authorities should:-

- not require applicants for energy development to demonstrate either the overall need for renewable energy and its distribution nor question the energy justification for why a proposal for such development must be sited in a particular location;
- ensure any local approach to protecting landscape and townscape is consistent with PPS 22 and does not preclude the supply of any type of renewable energy other than in the most exceptional circumstances;
- alongside any criteria-based policy developed in line with PPS 22, consider identifying areas suitable for renewable and low-carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources, but in doing so take care to avoid stifling innovation including by rejecting proposals solely because they are outside areas identified for energy generation;
- expect a proportion of the energy supply of new development to be secured from decentralised and renewable or low-carbon energy sources.'

Planning Policy Statement 7 (PPS7): Sustainable Development in Rural Areas identifies the Government's objectives for rural areas and seeks to raise the quality of life and environment in such areas and promotes more sustainable patterns of development. It states that decisions on development proposals should be based on sustainable development principles, ensuring an integrated approach to the consideration of:

- social inclusion, recognising the needs of everyone;
- effective protection and enhancement of the environment;
- prudent use of natural resources; and
- maintaining high and stable levels of economic growth and employment.

This document also states that planning authorities should continue to ensure that the quality and character of the wider countryside is protected and, where possible, enhanced. They should have particular regard to any areas that have been given a statutory designation for their landscape, wildlife or historic qualities where greater priority should be given to restraint of potentially damaging development.

Planning Policy Statement 4 (PPS4): Planning for Sustainable Economic Growth supersedes some of the provisions of PPS7 which have now been cancelled. Policy EC6: Planning for Economic Development in Rural Areas states that:

'Local planning authorities should ensure that the countryside is protected for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all.'

Planning Policy Guidance 24 (PPG24): Planning and Noise guides Local Authorities in England on the use of their planning powers to minimise the adverse impact of noise and outlines the considerations to be taken into account both for noise-sensitive developments and for those activities which generate noise. Paragraph 10 of PPG 24 indicates that the planning system should not place unjustifiable obstacles in the way of essential infrastructure development. It also refers to the need to prevent an unacceptable degree of disturbance. Paragraph 11 specifies that:

‘Noise characteristics and levels can vary substantially according to their source and the type of activity involved. In the case of industrial development, for example, the character of the noise should be taken into account as well as its level. Sudden impulses, irregular noise or noise which contains a distinguishable continuous tone will require special consideration.’

Planning Policy Statement 5 (PPS 5): Planning for the Historic Environment seeks to protect built heritage assets such as conservation areas, listed buildings and scheduled ancient monuments and states that the benefits of renewable energy must be weighed against any harm to the significance of heritage assets.

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 Statement 22 (PPS 22): Renewable Energy (2002) sets out practical advice on how policies for renewable energy can be implemented. This document, along with its companion guide published in 2004 reinforces the overall regional role for renewable energy in helping to deliver national energy targets for energy generation and reductions in greenhouse gas emissions.

The PPS explains that it follows on from the Energy White Paper ‘Our energy future creating a low carbon economy’ (2003) whose aim was to put the UK on the path to cut its carbon dioxide emissions by some 60% by 2050 with real progress by 2020.

The PPS sets out eight key principles to be followed by regional planning bodies and local planning authorities. In particular:-

- Key principle (i) explains that renewable energy developments should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic, and social impacts can be addressed satisfactorily;
- Key principle (ii) explains that regional spatial strategies and local development documents should contain policies designed to promote and encourage, rather than restrict, the development of renewable energy resources. Regional planning bodies and local planning authorities should recognise the full range of renewable energy sources, their differing characteristics, locational requirements and the potential for exploiting them subject to appropriate environmental safeguards;
- Key principle (iii) explains that at the local level, planning authorities should set out the criteria that will be applied in assessing applications for planning permission for renewable energy projects;
- Key principle (iv) explains that the wider environmental and economic benefits of all proposals for renewable energy projects, whatever their scale, are material

considerations and should be given significant weight in determining whether proposals should be granted planning permission; and

- Key principle (viii) requires development proposals to demonstrate any environmental, economic and social benefits as well as how any environmental and social impacts have been minimised through careful consideration of location, scale, design and other measures.

The PPS sets out the principles for regional targets, policies in regional spatial strategies and local development documents, locational considerations and a range of other considerations relating to scale, landscape and visual effects, noise, odour and types of renewable energy, e.g. biomass and energy crops, and wind turbines.

Paragraph 3 states that:-

‘Targets should be expressed as the minimum amount of installed capacity for renewable energy in the region, expressed in megawatts...Targets should be reviewed on a regular basis and revised upwards (if they are met) subject to the region’s renewable energy resource potential and the capacity of the environment in the region for further renewable energy developments.’

Paragraph 15 states that local landscape and local nature conservation designations should not be used in themselves to refuse planning permission for renewable energy developments. Planning applications for renewable energy developments in such areas should be assessed against criteria-based policies set out in local development documents, including any criteria that are specific to the type of area concerned.

In paragraphs 19 to 21 the PPS gives guidance on the landscape and visual effects of renewable energy developments. In particular it states that these effects will vary on a case by case basis according to the type of development, its location and the landscape setting of the proposed development (paragraph 19); that of all renewable technologies, wind turbines are likely to have the greatest visual and landscape effects, but that these impacts may be temporary if decommissioning conditions are attached (paragraph 20); and that planning authorities should take account of the cumulative impact of wind generation projects in particular areas.

At paragraph 22 the PPS specifies that:-

‘Local planning authorities should ensure that renewable energy developments have been located and designed in such a way to minimise increases in ambient noise levels.’

Planning for Renewable Energy: A Companion Guide to PPS22 offers practical advice as to how the policies contained within PPS22 can be implemented on the ground. The purpose of the guide is to assist decision makers in understanding the often complex issues associated with the different renewable technologies and their application in different environments. At paragraph 5.10 the Companion Guide sets out what planning authorities must assess for each project and thereby come to an objective view:-

- the extent to which the project is in conformity with the development plan, in particular criteria-based policies and any ‘broad area’ policies in Regional Spatial Strategies.
- the extent to which the reasons for any area-based designations may be compromised

- the extent of any positive or negative impacts, and the means by which they may be mitigated, if negative
- the contribution towards meeting the regional target, but recognising that a small contribution cannot, in itself, be a reason for refusal of permission.

### Regional Policy Guidance

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

Policy 39: Regional Priorities for Energy Reduction and Efficiency states that the East Midlands is lagging behind other English regions in terms of its contribution to renewable energy sources. It states that much of the region could be suitable for the location of wind turbines subject to a number of criteria, including visual impact and the cumulative effect of a number of turbines and their actual size. Appendix 5 which supports policy 39 of the Regional Plan sets out the renewable targets for the region according to the different types of renewable energy technologies. The targets set for Onshore Wind energy for the East Midlands are 122 Megawatts by 2010 and 175 Megawatts by 2020.

### Local Development Framework Core Strategy 2009

Spatial Objective 12: Climate Change and Resource Efficiency. The purpose of this spatial objective is to minimise the impacts of climate change by increasing the use of renewable energy technologies and minimising pollution.

### Hinckley and Bosworth Local Plan 2001

Policy BE27 states that planning permission for wind farms and individual wind turbines will be approved where the proposal is capable of supporting the generation of wind power, it is sensitively located taking into account the existing landform, it doesn't have a detrimental impact on surrounding properties and the proposal doesn't involve the erection of overhead power lines which would have an adverse impact on the landscape of the area.

Policy BE12 states that planning permission will not be granted for development which would adversely affect a Scheduled Ancient Monument or other nationally important archaeological site or its setting.

Policy BE17 states that planning permission will not be granted for development that would have an adverse impact on the character or setting of the Bosworth Battlefield Area.

Policy NE5 states that the countryside will be protected for its own sake. Planning permission will only be granted for development that is important to the local economy and cannot be accommodated within or adjacent to a settlement and where it doesn't have an adverse

effect on the character or appearance of the landscape and is in keeping with the scale and character of the general surroundings.

Policy BE1 seeks to safeguard and enhance the existing environment and states that planning permission will only be granted for development which complements or enhances the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features, incorporates design features which reduce energy consumption and doesn't adversely affect the occupiers of neighbouring properties.

Policy NE2 states that planning permission will not be granted for development which is likely to cause material harm through pollution of the air.

Policy NE6 states that planning permission will not be given for proposals which would damage SSSI's unless it can be demonstrated that :

- a) No other suitable sites are available for the development proposed
- b) The development is of such overriding national or international need that it exceeds the level of importance for nature conservation or geological interest.

#### Other material policy guidance

The Landscape Character Assessment 2006 defines the borough of Hinckley and Bosworth by a number of character areas. The application site is located within the Desford Vales Character Area D which is a gently rolling landform with predominately arable land and clustered areas of industry and recreational facilities locally prominent.

#### **Appraisal:-**

The main considerations with regards to this application are the principle of the development, the impact of development upon the character and appearance of the countryside including cumulative impact, impact on residential amenity (through the effects of shadow flicker, noise, electromagnetic transmissions or other disturbance) public rights of way, ecology and aviation.

#### Principle of development

The Companion Guide to PPS22 recognises that renewable energy projects and those in particular for harnessing wind energy by wind turbines make a significant contribution to electricity supply systems in the UK. In addition it states that the UK is particularly well placed to utilise wind power, having access to 40% of the entire European wind resource. With regards to location requirements this guide states that the 'successful introduction of renewables in all parts of England will involve the installation of different kinds of schemes in different contexts, from rural areas to densely populated areas'. Therefore it is established that there is planning policy support for the development of renewable energy projects in the UK and the proposed erection of two wind turbines is considered to be acceptable in principle.

#### Impact on Landscape

The first matter for consideration is the impact of the proposed development upon areas of designated or historical landscape. These include the Site of Special Scientific Interest (SSSI) at Botcheston Bog, Scheduled Ancient Monuments (SAM) at Ratby Camp and Old Hays and the Historical Bosworth Battlefield. These landscape designations are of National significance.



Indicative zones of visibility have been ascertained by using a computer-based intervisibility package to create a zone of theoretical visibility (ZTV). Actual zones of visibility are not determined by topography alone, and the ZTV is based on topographical information only. No account in its preparation has been taken of the minor topographical features such as roads and rail embankments or the screening effects of vegetation and built structures. In reality the screening effects of local topographic and landscape features would fragment and reduce the extent of most of these zones of visibility and may also reduce the number of wind turbines visible from any one location. Therefore it must be appreciated that the ZTV tends to overemphasise visibility and the actual visibility from any one point is most accurately reflected in the viewpoint analysis.

Accordingly a viewpoint analysis has been carried out on a selection of representative viewpoints to assess the likely magnitude of the effects of the proposed turbines on the local landscape and visual amenity.

The viewpoint analysis has been taken from Bosworth Battlefield and from the Scheduled Ancient Monument at Ratby Camp. The viewpoint analysis undertaken at Bosworth Battlefield clearly shows that the proposed turbines will not be visible on the landscape, thereby not resulting in any visual impact on the character or setting of this Historic Battlefield. Due to Bosworth Battlefield being sited 10.2km to the west the proposed development is not considered to be detrimental to the character, appearance or setting of this nationally significant battlefield site.

The viewpoint analysis taken from Ratby Camp shows that the proposed wind turbines will be clearly visible on the landscape. The proposed turbines will be located 1.6km from Ratby Camp to the south on an elevated piece of farmland. The ZTV analysis also shows that the mast and blades of the proposed turbines will be visible. It is accepted that the proposed turbines will be clearly visible at a distance of 1.6km to the south of Ratby Camp. However the landscape surrounding Ratby Camp and the application site is a mix of industrial and agricultural uses and features. The area immediately surrounding the application site is characterised by rolling countryside interspersed by industrial features including electricity pylons, overhead electricity transmission lines and telegraph poles. Therefore there are existing industrial influences on the landscape in this part of Leicestershire. There will be no direct physical impacts on the Ratby Camp SAM in terms of the physical construction and foundations for the proposed turbines. Although it is sited on the hillside the SAM at Ratby Camp is not a visually dominant heritage asset and is screened to an extent by an existing tree line along its southern boundary facing towards the application site. There are no other heritage sites located within visible sight lines to the south of the application site which will potentially become obscured by the wind turbines, thereby in turn not resulting in the wind turbines obscuring important vistas to the south of Ratby Camp. The setting and views of the proposed turbines from Ratby Camp will be unaffected by loss of tree cover during winter months, thereby meaning that the turbines will become a defining characteristic of the landscape.

In terms of cumulative impact from Ratby Camp the proposed wind turbines will be most visible when looking towards Low Spinney (under construction) wind farm 16km to the south east and Swinford wind farm (consent granted) 25km to the south east. The ZTV analysis shows that partial views of Low Spinney wind farm to the south west from Ratby Camp SAM may be available. However ZTV analysis is based on topography alone and the actual zones of visibility will be further obscured by man made features on the landscape, including settlements. The analysis shows that there will be no cumulative impact on views from Ratby Camp when the proposed wind turbines and Swinford wind farm are taken into account. It is therefore argued that this SAM is not a visually dominant feature on the landscape and due to the elevated position of the hub and blades above the horizon line the proposed development will still allow important panoramic views of the surrounding countryside. The

surrounding landscape has already been shaped by industrial features including electricity pylons, telegraph poles and by the industrial estate located along Desford Lane to the south.

The applicant's agent has undertaken further analysis of the impact of the proposed development upon the SAM sites at Moated Site south west of Lindridge Fields Farm, Old Hays Ratby and Kirby Muxloe Castle which was received on 30 June 2011.

The SAM located south west of Lindridge Fields Farm is sited 3.4km to the north west of the application site on the top of a hill. However due to the presence of substantial screening immediately around the SAM and the land rising sharply towards the south east thereby further screening the view in this direction it is considered that very limited views of the proposed turbines will be possible. Likewise the SAM located at Old Hays, Ratby is surrounded by dense woodland at Ratby Burroughs, thereby affording very limited views both towards and out of this heritage asset. Kirby Muxloe Castle is located on a low-lying piece of land approximately 2.4km to the east within the settlement of Kirby Muxloe. Views from this SAM site towards the proposed application site are largely screened by existing mature trees and by the dwellings and buildings within the settlement of Kirby Muxloe to the west. Taking into account the different factors affecting each of the SAM's the proposed wind turbines are not considered to significantly affect the character and setting of these heritage assets.

In terms of the visual impact of the proposed development upon the SSSI at Botcheston Bog it should be noted that this lowland grassland site is densely screened on all boundaries by mature trees in excess of 4m high. The ZTV analysis shows that the rotor blades of the proposed turbines may be visible from this designated site. Due to the level of natural screening along the boundaries of Botcheston Bog it is considered that the proposed wind turbines will be largely screened from view, thereby significantly reducing the visual impact of the proposed development upon the setting of this SSSI.

In terms of the effects on landscape character, as has been said before, the wind turbines will become one of the defining characteristics of the site's landscape. None of the existing key characteristics of the landscape will be lost but the turbines will introduce tall moving structures which are not a characteristic of the current site landscape and as a result a significant change will occur. Although it has been identified in the Leicestershire Landscape Character Assessment that the Desford Vales Character Area is defined by clustered areas of industry that are prominent it is accepted that this part of the character area will be changed significantly as a result of the proposal. Outside the site the landscape character of the local landscape will also be significantly changed. In terms of visual amenity the potential to affect the visual amenity of the receptors of the surrounding area is high. Some residents within Newtown Unthank, with clear views of the turbines with the industrial estate in the foreground, would experience a significant change. There would similarly be significant changes in the view for residents within parts of Desford, Ratby and Kirby Muxloe with open clear views of the turbines and similarly residents within parts of Botcheston and Bagworth to the north west and Leicester Forest East and Glenfield on the eastern side of the application site could have significant changes in their views as a result of the proposed turbines.

Whilst the proposal would become a defining characteristic of the landscape of the site and immediate locality, wind turbines are a relatively recent addition to our environment and there is no consensus of opinion on the most appropriate types of landscape in which to site the various scales of wind energy development.

Landscape character is not a static picture but is ever evolving as a result of both man's influence and natural forces. There have been progressive changes to the character of this landscape over the last century as a result of changes in agricultural practices and other built developments such as housing and industrial developments. It is likely that this area will

witness further dramatic changes over the coming century as a result of climate change. Wind turbine developments are an open form of development, that is to say that whilst they are accepted as being highly visual structures they are open in that observers can see the landscape through the array of turbines and this is particularly relevant to small array of turbines such as are proposed here at Park House Farm. Whilst the impact on the landscape and on the visual appearance and amenity of the area may be significant from many viewpoints in the area, it is not considered to be unacceptably adverse and therefore on landscape and visual grounds, taking into account all relevant issues, survey work that has been carried out, viewpoint work and analysis of the impact of development upon heritage assets there is no substantive reason to withhold permission for this wind farm development on landscape and visual impact grounds alone.

The assessment that needs to be made and the balance that has to be struck is would these structures, either as a single site or cumulatively, lead to unacceptable harm to both the visual amenity of the area or its landscape character. The cumulative impact plans that have been produced show that visibility within the agreed study area of 25km the proposed wind turbines will be visible from most directions within a 5km radius of the site. Beyond this distance the visibility of the turbines reduces and this is largely influenced by topography. The area to the south and east of the site would have greater visibility of the proposed wind turbines due to the lower lying topography of the land. Conversely the area to the north of the site rises significantly in land levels towards Markfield and Bagworth, thereby reducing the potential for the wind turbines to be visible.

The distance from the proposed wind turbines to sites where wind farms have been consented, are under construction or operational within a 25km radius varies between 11.5km to 25km.

The Cumulative Visual Impact Assessment submitted with the planning application concludes that in the area between Kirby Muxloe and Newbold Verdon the 132m high wind turbine at the Severn Trent Treatment Works (consent granted) could be viewed alongside the proposed wind turbines but this would be dependent on clear weather conditions. In terms of travelling along motorways and main highway routes the document states if all consented schemes were constructed then a journey made along the M1 from Junction 19 to the A46 could result in a vehicle user passing 5 sites containing wind turbines. However given the separation distances between each site a vehicle user would be passing each site in succession before they approached another site. It is accepted that there may be instances where some of the larger wind turbines could be seen cumulatively on the landscape with another site such as at Swinford and Low Spinney but there are also considerable breaks between turbine sites where no combined views would be possible such as the distance between Low Spinney and the application site or between the application site and the Severn Trent Treatment Works. It is important to note that man-made features such as the residential areas to the west and south west of Leicester and to the north of Leicester would help to screen and dilute the potential cumulative impacts of wind turbines still further.

From a cumulative perspective, the additional impact on the landscape character and visual amenity of the area compared to that which the approved wind farms at Low Spinney (4x125m), Old Dalby (9x79m) and Swinford (11x125m) will exhibit is considered to be minimal and because of the limited number of turbines that can be seen at the same time as the proposed turbines here at Park House Farm, the additional impact on the landscape and on visual amenity is also considered to be low. Therefore the additional changes to landscape character and views from a visual perspective that would cumulatively arise in considering the closest approved wind turbine sites are considered to not be of such a significant nature to warrant resisting this proposal.

## Shadow Flicker

The potential for shadow flicker can be calculated and is addressed in the Companion Guide to PPS22. Under certain combinations of geographical position and time of day the sun may pass behind the rotors of a wind turbine and cast a shadow over neighbouring properties. When the blades rotate the shadow flicks on and off. The effect is known as shadow flicker. It only occurs inside buildings where the flicker appears through a narrow window opening. The seasonal duration of this effect can be calculated from the geometry of the machine and the latitude of the site. Although problems caused by shadow flicker are rare, applicants for planning permission for wind turbine installations should provide an analysis to quantify the effect. A single window in a single building is likely to be affected for a few minutes at certain times of the day during short periods of the year. The likelihood of this occurring, the duration and effect depends upon the following factors:-

- a) the direction of the residence relative to the turbines
- b) the distance from the turbines
- c) the turbine hub height and the rotor diameter
- d) the time of year
- e) the proportion of daylight hours in which the turbines operate
- f) the frequency of bright sunshine and cloudless skies
- g) the prevailing wind direction.

Only properties within 130 degrees either side of north relative to the turbines can be affected at these latitudes in the UK. Turbines do not cast long shadows on their southern side. The further the observer is from the turbine, the less pronounced the effect will be. There are several reasons for this:

- a) there are fewer times when the sun is low enough to cast a long shadow
- b) when the sun is low it is more likely to be obscured by either cloud on the horizon or
- c) intervening buildings and vegetation, and
- d) the centre of the rotor's shadow passes more quickly over the land reducing the duration
- e) of the effect.

The guidance within the Companion Guide to PPS22 states that shadow flicker can be mitigated by siting wind turbines at sufficient distance from residences likely to be affected. Flicker effects have been proven to occur only within 10 rotor diameters of a turbine. Therefore, if a turbine has 90 metre diameter blades, the potential shadow flicker effect could be felt up to 900 metres from a turbine. The wind turbines forming the basis of this planning application have a blade diameter of 32m, thereby meaning that the turbines should be located a minimum of 320m from residences. The nearest residential property to the site is the applicant's property at Park House Farm located 350m to the south west. The distance from the proposed turbines to the residential care Home on Desford Lane outside of Kirby Muxloe is in excess of 1km, thereby being located significantly further away than the guidance prescribed in the Companion Guide to PPS22. The Environmental Report submitted with the planning application refers to shadow flicker and concludes that the nearest residential properties to the application site are all located outside of the 320m zone in which shadow flicker may occur. However it is considered prudent to impose a planning condition that would require prior approval and implementation of a scheme setting out the protocol to be followed for the assessment of shadow flicker if any complaint was to be made. The scheme would include the action to be taken if a complaint was justified and this action could include shutting down the turbine that is causing shadow flicker to occur, at the appropriate times.

Turbines can also cause flashes of reflective light which can be visible for some distance. It is possible to ameliorate the flashing but it is not possible to eliminate it. Careful choice of

blade colour and surface finish can help reduce the effect. Light grey, semi-matt finishes are often used for this.

## Noise

The noise assessment assesses the noise potential of the wind turbines against 'The assessment and rating of noise from wind farms' 1996 published by ETSU on behalf of the DTI. This document is the industry standard document that is used against which all wind farms and wind turbines in the United Kingdom are assessed in respect of potential nuisance from noise.

The noise survey submitted with the application includes much information in the form of surveys that have been carried out locally at identified locations to assess noise levels to meet the absolute lower limit specified within the ETSU guidance when the proposed turbines are operating at high wind speed. The noise survey measured background noise during daytime and night-time periods.

A methodology is provided for the measurement of background noise levels under various wind conditions. The report (ETSU) recommends that data which may be corrupted by extraneous noise sources, including periods when rain falls or when water courses have abnormally high flows, should be discarded. At all times the noise levels measured in the environment are to be correlated with wind speed measurements at the site at a reference height of 10 metres above ground. The exercise is carried out for 'quiet' daytime periods and night-time periods which are defined as follows:-

- a) quiet daytime is from 6pm to 11pm on weekdays, 1pm to 11pm on Saturdays, and all day on Sundays;
- b) night-time is between 11pm and 7am daily;
- c) all other periods (weekdays and Saturday mornings) are defined as normal daytime when it would be expected that ambient noise levels must be somewhat elevated because of human activity, distant road traffic and natural noise sources.

The practice of controlling wind turbine noise by means of noise limits at the nearest noise sensitive properties is considered appropriate in this case. Noise limits should be applied to external locations and should apply only to those areas frequently used for relaxation or activities for which a quiet environment is highly desirable.

Noise limits should be set relative to the background noise at the nearest noise sensitive properties thus the limits reflect the variation in both turbine source noise and background noise with wind speed. Absolute noise limits and margins above background should relate to the cumulative effect of all wind turbines in the area contributing to the noise received at the properties (or sensitive receptors) in question. Noise from the wind turbine or combination of turbines should be limited to 5 decibels above background for daytime and night-time, remembering that the background level of each period may be different. The two nearest wind farms at Severn Trent Sewage Treatment Works and Low Spinney would have no cumulative impact with the subject site. The results of the noise survey show that the limit for noise levels at the nearest sensitive receptors (nearest residential properties) is calculated at 35Db La90 and confirms that the three residential properties at Elms Farm, Oaks Farm and The Hollows Farm that formed part of the noise survey fall below this limit. ETSU states that both day time and night-time lower fixed limits can be increased to 45dB (A) to increase the permissible margin above background where the occupier of the property has some financial interest in the wind farm. The results for Park House Farm (applicant's property) and The Bungalow (applicant's parents property) have predicted noise levels of 43 and 37dB La90

which are above the calculated lower absolute limit of 35dB but below the permissible margin of 45dB for properties where the two occupants have financial interest in the wind turbines.

ETSU then states that where noise is limited to a La90, 10min of 35 dB (A) up to wind speeds of 10m/s at a height of 10m then a condition alone set at this limit would offer sufficient protection of amenity and background noise surveys would then be unnecessary. Following receipt of the results contained within the noise survey the Head of Community Services (Pollution) has recommended the imposition of two planning conditions that limits the noise limit to 35dB to properties outside of the site and to a fixed limit of 45dB for those properties within the curtilage of the application site (i.e. those properties where the occupants have a financial interest in the wind turbines). It is considered that these conditions comply with the guidance set out in ETSU.

Another issue associated with wind turbines is Amplitude Modulation or AM which is described as a 'thumping' noise or is referred to as blade swish. The causes of AM are not clear and there is no degree of certainty that this type of noise would not cause disturbance. Therefore a condition will be imposed that in the event of a complaint relating to the regular fluctuation of turbine noise levels including the potential for AM to be a contributory factor then it shall be investigated and a mitigation scheme shall be submitted to the local planning authority for consideration and implemented as agreed.

It should be noted that the noise survey has taken account of those properties that are located nearest to the proposed wind turbines and therefore concluded that these properties would be the ones most likely affected by the proposed development. The findings of the report have been considered by the Head of Community Services (Pollution) and no further locations for undertaking additional noise surveys have been identified. The noise survey was undertaken from the application site where development is proposed. Conditions will be imposed in accordance with ETSU and PPS22 in relation to noise to protect the amenity of residential properties in the area. There is no evidence to support the view that wind turbines generate a screeching noise over time.

### Electromagnetic Interference

It is recognised in the Companion Guide to PPS22 that wind turbines can potentially affect electromagnetic transmissions in two ways; by blocking or deflecting line of sight radio or microwave links, or by the 'scattering' of transmission signals. In their supporting information the applicant's agent has provided evidence of pre-application consultation with infrastructure providers responsible for radio, television and telecommunications. In all cases no objections were raised but a consistent response was that a minimum clearance of 100m from the swept area of turbine blades is applied. In the case of British Telecom it was noted that one of the turbines is proposed to be sited within 90m of their infrastructure which is not within the required clearance of 100m plus blade diameter. However the proposed turbines will be sited 120m to the west of the infrastructure provided by British Telecom, therefore meeting the advisory clearance zone. If the turbines were to be re-sited within a permitted spatial limit then they would still be located a sufficient distance away from the apparatus maintained by British Telecom who have stated that the lowest zone of tolerance would be approximately 40m from turbine 1.

In order to mitigate against the potential impacts of electromagnetic interference resulting from the proposed turbines a condition will be imposed that requests a scheme of investigation and alleviation of any electromagnetic interference be submitted for consideration by the Local Planning Authority prior to any development commencing.

## Public Rights of Way

Concern has been raised from the Director of Environment and Transport (Rights of Way) that the southernmost of the two proposed turbines is located too close to public footpath S2 located to the south. The southernmost of the two wind turbines is located 60m to the north of public footpath S2. The Companion Guide to PPS22 states that there is no statutory separation between a wind turbine and a public right of way and that the minimum distance is often taken to be that the turbine blades should not be permitted to oversail a public right of way. The proposed turbine blades will not oversail public footpath S2 to the south.

## Ecology

The Directorate of Chief Executive (Ecology) and Natural England have raised no objections to the proposed development from an ecological perspective. Conditions have been recommended that the development be carried out in strict accordance with the mitigation measures for protected species set out in the Ecology Walkover Report submitted with the planning application. There is no significant ecological impact and an Appropriate Assessment is not required.

## Aviation

No objections from any statutory bodies have been received. In accordance with the comments received from the Ministry of Defence a condition will be imposed requiring aviation lighting to the proposed wind turbines. No objections have been received in regard to the potential impact of the development upon radar equipment.

## Other issues

### Absence of an EIA (Environmental Impact Assessment)

The proposed development was formally screened by this Local Planning Authority in July 2010 in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 to determine whether it constituted EIA development and if a subsequent Environmental Statement was required with any potential planning application that was to be submitted for consideration. Based on the information provided it was concluded by this Local Planning Authority that the proposed wind turbines were not EIA development and therefore an Environmental Statement was not required.

### Operational issues associated with Wind Turbines

Once installed the proposed wind turbines will operate on a 24 hour basis seven days a week. They have a projected operational life-span of 25 years, after which time they will be decommissioned and either removed or repowered accordingly. According to the Environmental Report submitted with the planning application the proposed wind turbines begin generating electricity at a wind speed of 3.5m/s and shut down at 25m/s to ensure the safe operation of the machinery. The turbines are controlled by their own computer system which provides both operational and safety functions. Wind turbines also continuously monitor their own performance and if vibrations caused by component imbalances are detected or connection to the electricity grid infrastructure is lost, all turbines are capable of emergency stops.

The electrical cabling to enable connection to the grid will be set underground at a depth of 1.35m for its entire course to a point 160m to the south west of the proposed wind turbines. Therefore there will be no requirement for overhead power lines to be erected on the site.

The proposals do not involve the erection of an anemometer mast and an anemometer mast has not been erected at the site for a temporary period of time prior to this planning application being submitted. It is not a statutory planning requirement for an anemometer mast to be provided as part of a planning application for wind turbines or to be erected for a period of time prior to the submission of such a planning application.

In terms of the question raised by one of the objectors in relation to limiting factors affecting the operation of turbines it is noted that this location has been chosen as it is sited away from the constraints that would otherwise affect the performance of the turbines. The turbines are to be located on a hillside that is relatively open, away from any dense concentrations of woodland and settlements.

#### Precedent for further development

It has been stated by an objector that if this development is permitted then it will result in further development of this nature and scale. It should be noted that a planning application would be required for any future wind turbine developments and such an application would be considered on its own merits. An important point of note is that future wind turbine development would have to take into account the cumulative impact of wind turbine development within a specific spatial area.

#### Conclusion

The proposed scheme is of major significance for the borough of Hinckley and Bosworth and for the county of Leicestershire as a whole and will have impacts, particularly in terms of landscape and visual impact and for the experience of people using roads, footpaths and bridleways in the wider area.

The impacts will, however, not be unacceptably harmful and a balance must be made between the harmful impacts of such schemes and the positive benefits of renewable energy which is a national priority.

In making a full and proper planning balance, the benefits of the proposed development, in terms of the contribution that this development is making towards the regional energy targets set for onshore wind farms within the East Midlands and that it is allowing the applicant to contribute towards offsetting the carbon emissions of their agricultural operations must be taken into account. The proposed development is compliant with planning policy at national, regional 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 it constitutes a renewable energy project that contributes towards the regional renewable energy targets for the East Midlands Region, it would not be detrimental to highway safety, to species of ecological conservation or to sites of historical or scientific importance.

Planning Policy Statement 22: Renewable Energy and the Companion Guide to PPS22: Planning for Renewable Energy both support the principle of harnessing wind energy by wind turbines and recognises it as an important contributor to supplying electricity in the United



Kingdom and lowering carbon emissions. It sets out the different issues for consideration for wind turbine development. It is considered that the proposed development of two 250kw wind turbines in this countryside location addresses all of the key issues raised in the Companion Guide to PPS22 in regard to operation and maintenance, noise, landscape and visual impact, safety, ecology, proximity to infrastructure, electromagnetic interference, shadow flicker, aviation, and construction/operation disturbance. It will result in a form of development that will allow the applicant to reduce the carbon emissions of their agricultural operations, to produce electricity from a clean and sustainable source for the applicant and their agricultural operations and will contribute towards the supply of electricity into the National Grid.

Hinckley and Bosworth Local Plan (2001):- Policies BE1, BE12, BE17, BE17, NE2, NE5 and NE6.

Hinckley and Bosworth Local Development Framework: Adopted Core Strategy (2009):- Spatial Objective 12.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Written confirmation of the date of the first export of electricity to the grid from the wind farm hereby permitted shall be provided to the local planning authority within one month of the date of this taking place.
- 2 The planning permission hereby granted is for a period from the date of this decision until the date occurring 25 years after the date of the first export of electricity to the grid from the wind turbines hereby permitted, when the use shall cease and the turbines, control house, transformer compound and turbine laydown area shall be removed from the site in accordance with Condition 14.
- 3 No development hereby permitted shall commence until full details of the colour and finish of the turbines, control house, transformer compound, and air safety lighting have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 4 Not less than one year prior to the expiry of this planning permission a Decommissioning Method Statement shall be submitted for the written approval of the local planning authority. This shall include details of all site decommissioning works, including how the turbines and ancillary equipment would be dismantled and removed from the site, the depth to which the turbine foundations shall be removed below ground level, along with details of site restoration and a timetable of works. The Decommissioning Method Statement shall be carried out as approved.
- 5 The blades of all wind turbines shall rotate in the same direction.
- 6 Prior to the First Export Date, a scheme for the investigation and alleviation of electromagnetic interference, including to television reception, caused by the turbines hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation measures shall be carried out in accordance with a timescale approved in writing by the Local Planning Authority.
- 7 Prior to the First Export Date, a scheme setting out a protocol for the investigation and alleviation of shadow flicker caused by the turbines hereby permitted in the event of any complaint being received, shall be submitted to and approved in writing by the Local Planning Authority. The approved mitigation measures shall be carried out in accordance with a timescale approved in writing by the Local Planning Authority and be kept in place for the duration of the permission.

- 8 Prior to the commencement of any works, a Construction Method Statement shall be submitted to and approved in writing by the local planning authority. This shall include details relating to:-
- a) The control of noise and vibration emissions from construction activities including groundwork and the formation of infrastructure, along with arrangements to monitor noise emissions from the development site during the construction phase
  - b) The control of dust including arrangements to monitor dust emissions from the development site during the construction phase
  - c) Measures for controlling pollution/sedimentation and responding to any spillages/incidents during the construction phase
  - d) Measures to control mud deposition offsite from vehicles leaving the site.
  - e) The location and size of temporary parking
  - f) The control of surface water drainage from parking and hard-standing areas
  - g) The use of impervious bases and impervious bund walls for the storage of oils, fuels or chemicals on-site
  - h) The means by which users of public rights of way would be protected during the construction period.

The development shall be carried out in compliance with the approved Construction Method Statement, unless otherwise approved in writing by the Local Planning Authority.

- 9 All construction and decommissioning works shall be carried out only between the hours of 07:00 to 19:00 Monday to Friday, 07:00 to 16:00 Saturdays and at no times on Sundays and recognised Public Holidays, unless otherwise agreed in writing by the local planning authority.
- 10 Prior to the commencement of the development, a traffic management plan shall be prepared in consultation with the local highway authority and shall be submitted to and approved in writing by the local planning authority. The management plan shall include details of access routes for all vehicles carrying turbine parts and any alterations or improvements which may be required to the highway network along these routes, including advisory signs. During construction work all deliveries shall be undertaken in accordance with the approved traffic management plan unless the local planning authority gives its written consent to any variation.
- 11 The turbines shall be fitted with appropriate lighting in accordance with a scheme to be submitted to and approved in writing by the local planning authority.
- 12 Prior to the commencement of the development hereby permitted, details of the make, model and sound power levels of the wind turbines to be erected shall be provided to and approved in writing by the local planning authority. The information provided shall be of adequate detail to allow proper comparison with the contents of the Environmental and Noise Statements.
- 13 All cables within the development site between turbines and from the turbines to the substation shall be set underground.
- 14 If any of the wind turbines hereby permitted ceases to operate for a continuous period of 6 months then, unless otherwise approved in writing by the local planning authority, a scheme for the decommissioning and removal of the wind turbine and any other ancillary equipment shall be submitted to and approved in writing by the local planning authority within 3 months of the end of the 6 month cessation period. The scheme shall include details for the restoration of the site. The scheme shall be

implemented and site restoration completed within 12 months of the date of its approval by the local planning authority.

- 15 Access shall be afforded at all reasonable times to any archaeologist nominated by the Local Planning Authority which shall allow him/her to observe the excavations and record items of interest and finds throughout the period that redevelopment/development is taking place.
- 16 The development hereby permitted shall be carried out in strict accordance with the Ecological Walkover Survey Report produced by SLR Consulting Limited dated February 2011 with particular consideration given to then non-licence avoidance measures for Great Crested Newts and the stand-off distances recommended in paragraph 5.1.3 of the report.
- 17 Appropriate surveys of protected species and appropriate protection of these species shall be agreed in writing with the local planning authority prior to any works of decommissioning being commenced. The decommissioning shall be carried out in accordance with that agreement. The persons or body responsible for the decommissioning works shall designate a person or persons to ensure that all decommissioning work is undertaken in accordance with the terms of that agreement.
- 18 The LA--90,10min at any residential premises outside of the curtilage of Park House Farm shall not exceed 35dB(A) up to wind speeds of 10m/s at 10m in height.
- 19 The LA--90,10min at any residential premises within the curtilage of Park House Farm shall not exceed 45dB(A) up to wind speeds of 10m/s at 10m in height.
- 20 Within 28 days from the receipt of a written request from the local planning authority following a complaint to it, the wind turbine operator shall, at its own expense, employ an independent consultant approved in writing by the local planning authority to assess the level of noise emissions from the wind turbine at the complainants property following a procedure to be agreed in writing prior to the commencement of development with the local planning authority. Details of the assessment and its results as to whether a breach of the noise limits in conditions 18 and 19 of this permission has been established shall be reported to the local planning authority as soon as the assessment is completed.
- 21 Upon notification in writing from the local planning authority of an established breach of the noise limits in conditions 18 and 19 of this permission, the wind turbine operator shall, within 28 days propose a scheme to the local planning authority to mitigate the breach to prevent its future occurrence, including a timetable for its implementation. Following the written approval of the scheme by the local planning authority it shall be activated forthwith and thereafter retained.
- 22 On the written request of the local planning authority, following a complaint to it considered by the local planning authority to relate to regular fluctuation in the turbine noise level (amplitude modulation), the wind farm operator shall at its expense employ an independent consultant approved in writing by the local planning authority to undertake an assessment to ascertain whether amplitude modulation is a contributor to the noise complaint. If the said assessment confirms amplitude modulation to be a contributor to the complaint, the developer shall submit a scheme to mitigate such effect. Following the written approval of the scheme and the timescale for its implementation by the local planning authority the scheme shall be activated forthwith and thereafter retained.

- 23 Wind speed, wind direction and power generation data of the turbines shall be continuously logged at a height of 10 metres and provided to the local planning authority at its request. Such data shall be retained for a period of not less than 2 years

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 The planning application has only been made for a 'life span' of 25 operational years.
- 3 In the interests of visual amenity in accordance with policies NE5 and BE1 of the Hinckley and Bosworth Local Plan.
- 4 The planning application has only been made for a 'life span' of 25 operational years.
- 5 In the interests of visual amenity in accordance with policies NE5 and BE1 of the Hinckley and Bosworth Local Plan.
- 6 In order to ensure adequate mitigation of any impacts due to electromagnetic interference resulting from the turbines or their operation in accordance with the companion guide to Planning Policy Statement 22.
- 7 In order to provide mitigation of the effects of shadow flicker, should they be evident to an unacceptable level in accordance with the companion guide to Planning Policy Statement 22..
- 8 To ensure best practices throughout the constructional phase of the development are used in accordance with policies NE2 and BE1 of the Hinckley and Bosworth Local Plan.
- 9 To ensure the turbines operate in accordance with the parameters set out in ETSU-R-97, and to protect the amenity of residents in accordance with policy BE1 and NE2 of the Hinckley and Bosworth Local Plan.
- 10&11 In the interests of highway safety in accordance with policy T5 and BE1 of the Hinckley and Bosworth Local Plan.
- 12 To ensure that the turbines operate in accordance with the parameters set out in the Environment and Noise statements and in accordance with ETSU-R-97 and Policy NE2 of the Hinckley and Bosworth Local Plan.
- 13&14 In the interests of visual amenity in accordance with policies BE1 and NE5 of the Hinckley and Bosworth Local Plan.
- 15 To ensure satisfactory archaeological investigation and recording to accord with policy BE16 of the Hinckley & Bosworth Local Plan.
- 16&17 To protect features of nature conservation in accordance with Planning Policy Statement 9: Biodiversity and Geological Conservation.
- 18-23 To ensure the turbines operate in accordance with the parameters set out in the Noise Report and in accordance with ETSU-R-97, and to protect the amenity of

residents in accordance with policy BE1 and NE2 of the Hinckley and Bosworth Local Plan.

**Notes to Applicant:-**

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 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](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The pond proposed in the north eastern corner of the field as shown on Drawing 2 submitted with the Ecological Walkover Report shall be constructed in accordance with the specifications set out in the report.
- 6 Any incidental bat/bird strike occurrences shall be recorded and reported to Leicestershire County Council ecology department.
- 7 You should ensure that public footpath S2 remains unobstructed from delivery or construction vehicles, staff vehicles and from the storage of construction materials at all times. If it is necessary for any works to be undertaken within the confines of the public footpath then prior permission will be required from the Rights of Way Inspector for this area. Please contact Mr A Perry on 0116 305 0001 to discuss this matter further.

**Contact Officer:-** Scott Jackson Ext 5929

**Item:** 03  
**Reference:** 11/00334/EXT  
**Applicant:** Mr G Pearson  
**Location:** The Bungalow 47 Hinckley Road Burbage  
**Proposal:** EXTENSION OF TIME FOR EXTANT PLANNING PERMISSION 08/00102/FUL FOR DEMOLITION OF EXISTING RETAIL PREMISES AND BUNGALOW AND ERECTION OF 10 DWELLINGS  
**Target Date:** 28 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.

Application Proposal

This is an application for an extension of time for extant planning permission (ref: 08/00102/FUL) for the demolition of existing retail premises and bungalow and the erection of 10 dwellings. The previous application was a full submission and expired on the 1 May 2011. The extension of time application has been made prior to the expiry date.

The application proposes a new access from Hinckley Road serving a frontage terrace of five properties. This includes an undercroft to access a central parking area, while to the rear of the site is a further terrace of five properties. The proposed dwellings are a mix of two, three and four bedroomed terraced properties predominantly two storey with one two and a half storey property.

The Site and Surrounding Area

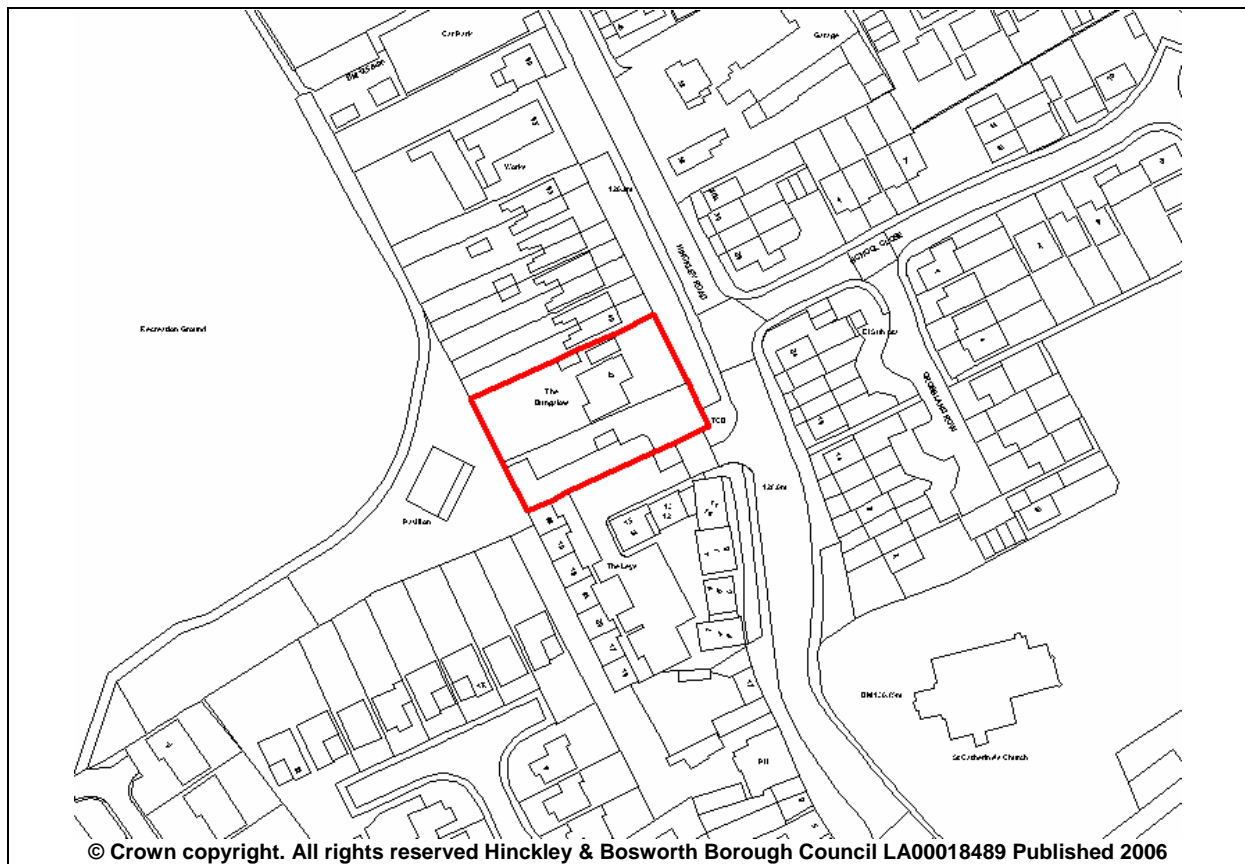
The site is centrally located within Burbage and fronts on to the Hinckley Road. A detached brick and render bungalow and adjacent, flat roofed two storey brick commercial building are currently on site. The site has an area of 0.17 hectares. The south of the site is bound by The Leys, a modern residential development while to the west of the site is Hinckley Road Recreational Ground. To the north and east are further residential properties.

Technical Document submitted with application

None Submitted.

**History:-**

08/00102/FUL	Demolition of existing retail premises And erection of 10 Dwellings	Approved	01.05.08
86/00106/4	Alteration and Extension to Existing Builder Office	Approved	28.02.86



### Consultations:-

No objection has been received from:-

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

No objection subject to conditions have been received from:-

Severn Trent Water Ltd  
Head of Community Services (Land Drainage).

Burbage Parish Council have objected to the application on the grounds of overdevelopment.

Two letters of neighbour objection have been received, these raise the following issues:-

- a) loss of light to principle rooms
- b) loss of view.

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

The Leicestershire Constabulary Crime Reduction Officer  
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, encourages the use of previously developed land within urban areas in preference to the development of greenfield sites for housing. The Policy states that good design is fundamental to the development of high quality new housing, which contributes to the creation of sustainable, mixed communities.

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 Guidance

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

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

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

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

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

#### Local Development Framework Core Strategy 2009

Policy 4 Development in Burbage seeks to allocate land for 295 new dwellings, diversify the range of existing housing stock to cater for a range of house types in line with Policy 16 and requires development to be of the highest environmental standard in line with policy 24.

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.

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

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

Policy 19 sets out standards for the provision of green space and play provision and identifies where improvements are needed to existing green spaces and play areas and where new spaces are required to support existing and new residents and workers in the borough.

Policy 24 requires all development within Hinckley, Burbage, Barwell and Earl Shilton to meet code level 3 of the Code for Sustainable Homes unless it would make the development unviable.

#### Hinckley and Bosworth Local Plan 2001

The site lies within the settlement boundary for Burbage as identified 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 T5: Highway Design and Vehicle Parking Standards refers to the application of appropriate standards for highway design and parking provision for new development.

Policy RES5 assesses proposals for residential development on unallocated sites. Planning permission will only be granted if the site lies within the boundaries of an urban area or rural settlement and the siting, design and layout of the proposal do not conflict with relevant plan policies.

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 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.

#### 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.

#### Other material policy guidance

The site falls within Zone 5 of the Burbage Design Statement which covers Sapcote Road/Burbage Road/London Road to the eastern settlement boundary. The statement highlights the variety of styles and ages of housing in Hinckley Road.

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

## **Appraisal:-**

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

### Changes to Policy

#### Central Government Guidance

Since 2008 National Planning Policy Statements have been both issued and amended on a number of topics. Planning Policy Statement 3 (PPS3) was revised on 9th June 2010 and removed private residential gardens from the definition of previously developed land and removed the national indicative minimum density of 30 dwellings per hectare.

Following the changes to PPS3, it is considered the development within this garden land falls within a 'Greenfield' classification. The subsequent letter from the Chief Planning Officer on 15 June 2010 makes clear these amendments provide Local Authorities the opportunity to prevent over development and to determine for themselves the best locations and types of development. It is also interpreted that the changes are to primarily prevent over development within residential areas that are considered out of character.

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

#### Density

The application proposes 10 dwellings on a site of 0.17 hectares this equates to 59 dwellings per hectare (dph). Although this will result in a highly dense development, the adjacent Leys development has a density of 78 dph. Accordingly the proposed development will not appear uncharacteristic within its surrounds. Further, given the sustainable location of the site close to services and amenities the density is considered acceptable.

#### Design and Layout

The application site is within a predominantly residential area of a variety of styles and ages. To the south of the site is The Leys development, consisting of 22 apartments set within two, two and a half and three storey buildings. This development includes flat fronted blocks with stone cills, blind windows, chimneys and dormer windows as design features. To the north are interwar semi-detached properties with hipped roofs and double height bay windows while opposite the site are a mixture of detached, semi-detached and terrace properties of two and one and half storey height built in the 1990s. These include small feature front gables and porches. Given the variation in residential design immediately surrounding the site, the application proposes to draw from the features of one development rather than trying to reflect other styles.

The approach taken to both layout and design reflects the adjacent Leys development. In layout terms, two terraces of flat fronted properties are proposed, one to the front building line and one to the rear of the site. Development at depth is considered acceptable given the adjacent development has apartments to the rear of the site and the existing retail premises is positioned on the rear boundary. With regards to design, a variation in ridge and eaves height, inclusion of dormer windows, chimneys and blind windows also reflects this adjacent

development. It is considered that the adjacent development has been successful and therefore the replication of some of its characteristic features is appropriate in this instance.

The Leys development includes apartments to the corner of the site which have side facing bedroom windows. These currently overlook the frontage parking of the retail premises. The proposal would see these windows looking at the gable of the end two and a half storey property at a distance of 11 metres. This is below the guidance separation distance of 14 metres, however this is a side facing bedroom window which it is considered is difficult to protect while making best use of urban land and there should be a more flexible approach where the design quality is high.

The separation distance between the front and rear blocks is 24 metres at its closest point which is considered acceptable. The distance between the rear block and the rear of the adjacent property, no. 49 Hinckley Road, is 16 metres. This is below Supplementary Planning Guidance requirements. Accordingly the two bedroom windows to the rear plot adjacent to this property have been obscurely glazed. No. 49 also has three side facing windows. These are to a dining room at ground floor which also has a rear facing window and two windows to a first floor landing. The impact on these windows is therefore not considered to warrant refusal of the application.

The frontage terrace steps from the building line of the adjacent inter-war properties and steps again within the terrace to reflect the differing building lines of the two sides of the site. Frontage gardens set behind a grass verge will reflect neighbouring properties. The rear block is also set forward of the apartments to the rear of The Leys site by 3.1 metres. The Leys apartments currently bound the single storey rear element of the existing retail premises therefore while the proposed dwellings will be set forward, the impact will be an improvement on the existing relationship.

The undercroft allows the continuation of built form across the site frontage and allows for a one and a half storey dwelling to be provided above the access increasing the mix of properties available. The mix of small two and three bedroomed properties is considered to be a positive aspect of the scheme as the village has seen the development of apartments and larger semi-detached and detached properties over recent years.

#### Provision of amenity space.

The adjacent Leys apartments are set to the rear of the site and have no private garden space. This application proposes a terrace in a similar position but with very small rear gardens. While the gardens are below requirements it is considered that the applicant could have proposed apartments in this position, to match the neighbouring development, which would be adequately served by the rear amenity space. The proposed terraced properties are considered to provide a better housing mix to the local area than a further development of apartments therefore the under provision of amenity space is considered acceptable in this instance. Further to this, the Supplementary Planning Guidance on New Residential Development states that gardens below the guidance depth may be acceptable where land to the rear is unlikely to be developed. This is considered to be the case in this instance as the Hinckley Road Recreation Ground is to the rear of these dwellings.

The gardens for the frontage properties are also below standard but this is considered an acceptable balance of private amenity space and car parking. The site benefits from being adjacent to the recreation site.

Based on the above it is considered that the character of the area would not be compromised and it is considered that the scheme would be in general conformity with PPS3. Whilst

amendments have been made to PPS3, they do not raise issues that would now imply that the development would be unacceptable.

### Regional Policy

In 2008 the scheme would have also been considered against Leicester, Leicestershire and Rutland Structure Plan which has since been superseded by the Regional Spatial Strategy for the East Midlands. While this high level policy has changed it is considered that the scheme would also be in accordance with the broad policies of the RSS which still seek to direct new development to urban areas.

Therefore while the development plan has changed since the original decision was reached it does not lead to a different conclusion on the acceptability of the application.

### Core Strategy

The Local Development Framework Core Strategy was adopted in December 2009 and of relevance to the scheme is Policy 4. This is an overarching policy to guide development in Burbage where there is support to deliver a minimum of 295 new residential dwellings within the settlement boundary of Burbage. As such, this policy is in principle, in support of the application.

Policy 24 requires all new dwellings in Burbage to be built to a minimum of Level Three of the Code for Sustainable Homes. The Council is actively applying the requirements of Policy 24 unless material considerations indicate that it cannot be reasonably achieved. In this case there are no arising material considerations that suggest that Code Level 3 compliance cannot be achieved.

### Local Plan Policy

The original scheme was granted on the 01 May 2008 therefore it was considered in light of the current adopted Local Plan Policies.

In summary, the development plan and other material considerations have not changed in a manner that would now lead to the application being refused.

### Changes to Conditions

Given that the development plan and other material considerations have not changed in a manner that would now lead to the application being refused the other consideration is whether additional conditions should be applied and consideration of the conditions previously imposed to ensure they are still relevant.

Since the determination of the previous application the Local Development Framework Core Strategy has been adopted (2009) and as discussed above Policy 24 requires that all new residential development within Hinckley, Burbage, Barwell and Earl Shilton will be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes. As such it is considered necessary to attach an additional condition to secure this.

### Play and Open Space Contributions

The site is located within 400 metres of open space at Hinckley Road recreational ground and as the proposal is for residential development, the proposal triggers a requirement for a contribution towards the provision and maintenance of play and open space in accordance with Policy REC3 supported by the Play and Open Space SPD.

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.

Within the Green Space Strategy 2005-2010, Burbage was found to have a deficiency of equipped play space (-1.11) and deficiency of outdoor sports (-3.60) for its population when compared with the National Playing Fields Standard.

The Quality and Accessibility Audit of 2005 categorised Hinckley Road Recreational Ground as an existing green space provision for children and young people and outdoor sports and awarded the park a quality score of less than 45%.

The document also makes recommendations to what works are required to improve the quality and provides a cost. It states that in order to improve the provision for children and young people, the amount required to improve the quality of equipped children play and open space would cost approximately £350,000.

The Play and Open Space SPD sets out how the contribution is worked out commensurate with the scale of the development. In this instance a contribution of £1,250.80 for the 9 new dwellings would be required. This would result in a total contribution of £11257.20.

It is considered that Burbage has both a deficiency of both equipped play space and outdoor sports and Hinckley Road Recreational Ground is considered to be of poor quality. The size of dwellings proposed would appeal to families and given the proximity of the application site to these open spaces it is considered that the future occupiers would use the facility, increasing wear and tear and requiring more equipment. It is considered that the Council has demonstrated that the proposal is required for a planning purpose, it is directly related to the development and fairly and reasonably relates in scale and kind to the proposal, and a contribution is justified in this instance.

A Unilateral Undertaking is under negotiation to secure the play and open space contributions.

The Head of Community Services (Drainage) has requested a condition requiring the submission of drainage details. Historically the development control process has sought to control the design of drainage systems, however in more recent years further control is now delivered through the Building Regulations and by Severn Trent Water (as the service provider) and the drainage scheme that has been approved by the planning authority is usually subject to change. In line with recent appeal decisions and Planning Inspector opinion, it has been agreed locally that drainage details will no longer be required to be subject to a planning condition unless there is uncertainty over network capacity or connection availability. Accordingly, in this case no drainage conditions are considered necessary.

The other remaining original conditions and the reasoning for their imposition have been considered and it is concluded that they are all necessary.

### Conclusion

The development plan and other material considerations have not changed in a manner that would now lead to a different conclusion on the acceptability of the application. It is considered that all other remaining conditions and additional conditions as stated for the

reasons outlined in the report should be imposed. As such, the extension of the scheme for a further 3 year plan period is acceptable subject to the imposition of the 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. The proposal will not have a detrimental impact upon residential amenity or highway safety or upon the character of the street scene. Therefore the proposal is considered acceptable.

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

Hinckley and Bosworth Local Development Framework: Core Strategy (2009) Policies 4, 5, 16, 19 and 24.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.
- 3 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 4 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.
- 5 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:-
  - a) means of enclosure
  - b) car parking layouts
  - c) other vehicle and pedestrian access and circulation areas
  - d) hard surfacing materials
  - e) minor artefacts and structures (e.g. details of refuse or other storage units and access and car park lighting)
  - f) planting plans
  - g) written specifications

- h) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
  - i) implementation programme.
- 6 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
  - 7 Notwithstanding the submitted details, before the commencement of development, details of all means of enclosure and boundary treatments shall be submitted to and agreed in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved details. This shall include a 1.8 metre high wall between the application site and 49 Hinckley Road.
  - 8 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1; Classes A - E shall not be carried out on the plots adjacent to the south western boundary of the site and development within Schedule 2, Part 1; Classes A and E shall not be carried out on the plot adjacent to the northern side of the proposed access unless planning permission for such development has first been granted by the Local Planning Authority.
  - 9 If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 10 metres behind the highway boundary and shall be hung so as to open inwards only.
  - 10 The car parking and any turning facilities shown within the curtilage of each dwelling shall be provided before the dwelling is first occupied and shall thereafter permanently remain available for such use unless otherwise agreed in writing by the Local Planning Authority.
  - 11 Prior to the commencement of development, the existing vehicular access to Hinckley Road shall be closed permanently and the existing vehicular crossings reinstated in accordance with a scheme that has been submitted to the Local Planning Authority and agreed in writing. The development shall then be implemented in accordance with the approved scheme.
  - 12 Before first occupation of the dwelling hereby permitted, its access drive and any turning space shall be surfaced with a hard bound porous material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and shall be so maintained at all times.
  - 13 Notwithstanding the submitted details, any shared private drive serving more than 5 but no more than 25 dwellings shall be a minimum of 4.8 metres wide for at least the first 5 metres behind the Highway boundary and have 6 metre control radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.
  - 14 Prior to the commencement of development, a Code for Sustainable Homes Design Stage Assessment demonstrating that the dwelling hereby approved can be constructed to a minimum of Code Level 3 shall be provided to the Local Planning



Authority. In addition, prior to the first occupation of the dwelling hereby approved, a final certificate demonstrating that the dwelling has been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority.

- 15 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Nos:- 02C, 03C, 02B, 01B, 04, 06 received by the Local Planning Authority on the 18/5/11.
- 16 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 17 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Nos:- 02C received on the 25 March 2008; 04, 03C, 01B received on the 4 March 2008.

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2&3 To ensure the safe development of the site and to protect amenities of future occupiers of the development to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 4 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 and Bosworth Local Plan.
- 5 To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy NE12 of the adopted Hinckley & Bosworth Local Plan.
- 7 In the interests of visual amenity to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 8 To ensure that the development is not detrimental to the privacy and amenity of the neighbouring property and in the interests of visual amenity to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 9 To enable a vehicle to stand clear of the highway to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 10 To ensure that adequate off-street parking facilities are available to accord with policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 11 To reduce the number of vehicular accesses to the site and consequently to reduce the number of potential conflict points to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

- 12 To reduce the possibility of deleterious material being deposited in the highway (loose stones etc) to accord with Policy T5 of the adopted Hinckley & Bosworth Local Plan.
- 13 To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 14 In the interests of sustainable development to accord with policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.
- 15 For the avoidance of doubt and in the interests of proper planning.
- 16 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 17 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](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The applicant is advised that a similar palette of natural materials as used in the adjacent Leys development will be expected to discharge the standard materials condition.
- 6 In relation to condition 3 and 4 advice from Environment Services is attached to this decision notice which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.
- 7 With regards to condition 11 the scheme shall include a timetable for the closure of the existing access and the opening of the new access.
- 8 With regards to condition 11, if the access is bounded immediately on one side by a wall, fence or other structure, an additional 0.5 metre strip will be required on that side. If it is so bounded on both sides, additional 0.5 metre strips will be required on both sides.
- 9 The existing school warning sign associated flashing amber unit along with the adjacent lamp column will need relocating as a consequence of the access works. All works shall be carried out entirely at the expense of the applicant, who shall first obtain the separate consent of the highway authority.

**Contact Officer:-** Eleanor Shaw Ext 5680

**Item:** 04

**Reference:** 11/00368/FUL

**Applicant:** Taylor Wimpey UK Limited

**Location:** Land Adjacent To Greyhound Stadium Nutts Lane Hinckley

**Proposal:** ERECTION OF 84 DWELLINGS INCORPORATING ACCESS, PUBLIC OPEN SPACE, BALANCING POND, PUMPING STATION AND ASSOCIATED EARTHWORKS, LANDSCAPING, CAR PARKING AND OTHER ANCILLARY WORKS

**Target Date:** 18 August 2011

#### **Introduction:-**

This application is to be considered at planning committee, in accordance with the scheme of delegation as it is a major application.

#### Application Proposal

This application seeks full planning permission for the erection of 84 dwellings including access, provision of public open space, a balancing pond, landscaping, car parking and pumping station.

The application proposes 84 dwellings consisting of 15 two bedroomed units; 60 three bedroomed units; 4 four bedroomed units and 6 two bedroomed flats over garages. The application includes 17 affordable units (a 23% contribution) consisting of 12 social rented and 5 shared ownership dwellings. There is a mix of detached, semi-detached and terraced dwellings of 2, 2.5 and 3 storey proportions proposed on site.

A new access is proposed to the east of the site from Nutts Lane and car parking is interspersed within the site to provide at least 1 car parking space per dwelling. A pumping station and balancing pond are proposed to the south western corner of the site and Sustainable Urban Design Schemes (SUDS) are in linear blocks through parts of the site in the form of swales. Public open space is proposed to the north of the site bordering Ashby Canal (totalling 0.13 hectares) with landscaping to the south and interspersed within the site.

Following concerns raised by officers, the applicant has provided further detailed plans to accurately depict chimney stacks, additional garage elevations and amendments to House Type F and phasing plan have also been submitted.

During the course of the application amendments to the layout of the canal side frontage, minor amendments to the overall layout and further details of the external appearance of the pumping station have been requested and are awaiting submission.

Following concerns raised by the Director of Environment and Transport (Highways) a safety audit and associated designers response, have been received and re-consultation undertaken with the Director of Environment and Transport (Highways).

## The Site and Surrounding Area

The site is roughly rectangular in shape measuring approximately 2.6 hectares and bounded by mature hedgerows with a single field-gate access from Nutts Lane.

To the south of the site lies the former greyhound stadium, currently under construction for residential development, following the grant of planning permission (ref: 09/01007/FUL). For ease, this application is referred to throughout the report as the Crest Nicholson development.

The site is immediately adjoined to the north of the site by the Ashby Canal, to the east by industrial units and to the west by residential development. The Ashby Canal is a designated Conservation Area and the site abuts the Conservation Area boundary.

The site is located outside the settlement boundary of Hinckley, as defined by the adopted Hinckley and Bosworth Local Plan proposals map (2001).

## Technical Documents submitted with Application

The application has been accompanied by a draft S106 agreement.

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

*Air Quality Assessment* - The Assessments reveals that the effect on local air quality of additional road traffic associated with the proposed development and the significance of the introduction of new exposure to pollution was considered to be imperceptible and negligible, respectively. The dust from both construction and from construction vehicles was considered to be negligible, following mitigation.

*Arboricultural Survey* - The Survey revealed that all trees and hedgerows which lie around the site boundaries are considered to qualify as 'important'. The development would result in the thinning of dead and dying Elm (G1) in an existing hedgerow; the thinning or removal of one poplar tree group (G5) and the replacement of a hawthorn hedge (G8), all of which were identified as 'Category C' – low quality and value. The report also states that the loss is to be compensated for by the planting of additional trees.

*Archaeological Desk Based Assessment* - The Assessment states that the site was subject to archaeological evaluation in 2001 and that these investigations have demonstrated that the site (and the surrounding area) does not contain any significant archaeological interest and that no further archaeological measures would be required. Furthermore, the surveys undertaken revealed that there are no identified heritage assets within the site and future development would not adversely affect the site or setting of any such designated heritage asset, including the Ashby Canal Conservation Area.

*Design and Access Statement* - The statement details the application site and its surroundings. It considers the proposed development in the context of national and local policy and discusses the previous reasons for refusal and appeal decision on the site, and within the vicinity, concluding that these reasons have now been addressed.

*Ecology Appraisal* - The Appraisal concludes the site to be of low ecological value, but that the site does support a number of habitats considered to be of low local value including the hedgerows, the dry pond and associated ditch. Great crested newts, birds, bats and the water vole population are not considered to be significantly affected, subject to the imposition of the following recommendations:-

- a) consolidation and enhancement of the existing hedgerows along the southern and eastern boundaries with gap planting with native species and appropriate long term management
- b) additional tree and low level shrub planting with native species and appropriate long term management
- c) a sensitive lighting strategy should be employed across the site
- d) width of the footpaths proposed through the northern boundary hedgerows should be minimised
- e) additional marginal and bankside vegetation and management of habitats
- f) maintain the 15 metre buffer zone between the proposed development and Ashby Canal
- g) re-assessment of the existing pond (currently dry ditch).

*Flood Risk Assessment* - The report states that the development is located in Flood Zone 1 and as such is categorised as an area with a 'low probability' of flooding from the nearby water course and that there are no known records of flooding on the site. The assessment acknowledges additional generation of storm run off and identifies that the most likely risk of flooding is from the on-site drainage system, but that the impact has been minimised through appropriate design of the site layout. The assessment makes the following recommendations:-

- a) a detailed ground investigation should be carried out
- b) surface water discharge should be limited to equivalent Greenfield rate of runoff
- c) consideration of the proposed layout; detailed design of the on-site surface water drainage system; detailed design of the proposed SUDS features
- d) future maintenance of the proposed surface water pumping water station.

*Landscape and Visual Appraisal* - The appraisal describes the topography and existing vegetation on site and views of the site from the surrounding area. It also considers the site in the context of regional and local character assessments, of which it considered Area F of the Hinckley and Bosworth Borough Council's District Character Assessment to be the closest.

*Noise Assessment* - The Assessment considers that the dwellings adjacent to Nutts Lane facing the industrial estate will require specific noise control measures. The windows serving habitable rooms will need to provide minimum sound reductions, over and above that of the normal thermal double glazing specification and that passive acoustic ventilators can be installed within the walls of habitable rooms. Where private amenity spaces are located behind the dwellings the noise criterion will be met, where not (i.e. plot 84) the use of 1.8 metre high close boarded timber fencing is recommended. The Assessment states that the relevant noise standards are considered to be met throughout the rest of the site.

*Planning Statement* - The Statement provides an explanation of how the proposal seeks to satisfy the relevant development plan policies and 5 year housing land supply and provides general justification for the proposal given its countryside and edge of settlement location.

*Statement of Community Engagement* - The Statement demonstrates the ways in which the applicants have engaged with the local community and reviewed the comments received and that the main issue raised in objection to the scheme relates to the traffic along Nutts Lane and that a detailed response is provided within Section 4 in the accompanying Transport Assessment.

*Transport Assessment* - The Assessment details that the access provision to the development will be via a staggered crossroads from Nutts Lane which was previously agreed to by LCC. Details of the potential vehicle movements to and from the immediate site

as well as the impacts upon the wider road networks have also been considered with the following findings:-

- a) the Nutts Lane/Hammond Way junction and the A5 Watling Street/Hammond Way roundabout operate within acceptable thresholds of capacity
- b) the Nutts Lane/Coventry Road junction operated outside acceptable thresholds under all PM scenarios modelled, however the impact of the development traffic at this location is considered minimal and as such no mitigation measures have been proposed
- c) the Canal Bridge was considered to be complex at PM peak hour and are therefore proposing to install MOVA and relocation of the northbound stop line, if necessary.

The Assessment also states that an upgrade to the pedestrian provision over the Nutts Lane canal bridge is proposed and that contributions to be provided include travel packs, up to 2 six month bus passes per household, bus shelters and improvements to the canal bridge.

*Travel Plan* - The Travel Plan provides details of the implementation of sustainable travel measures; the main objective being to reduce single occupancy car trips by 10% over a three year period in favour of more sustainable modes of transport and that the sustainability of the site in transport terms will be improved.

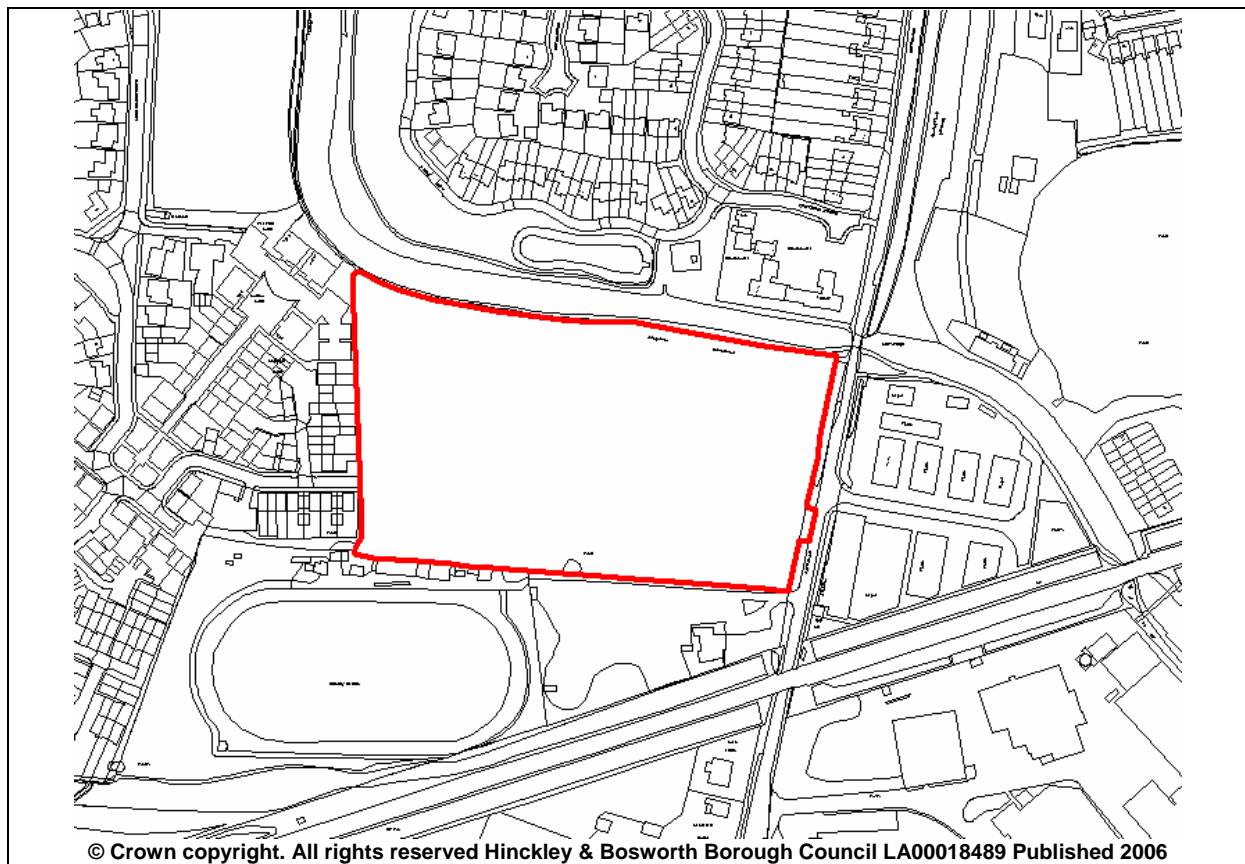
#### **History:-**

The site has been subject to three outline planning applications, all which have been recommended for refusal by the Borough Council.

06/00786/OUT	Residential development with means of access	Refused Dismissed at appeal	14.07.06
00/01214/OUT	Residential development	Refused	08.11.01
99/00514/OUT	Residential development and means of access	Refused	13.10.99

The latest application (ref: 06/00786/OUT) was tested at a public inquiry before an Inspector, and was later dismissed. The issues that were considered by the Inspector were: -

- a) whether, having regard to prevailing policy and housing land supply, there are material considerations that would be sufficient to outweigh the general presumption against development in the countryside
- b) the impact of the proposed development on the character and appearance of the surrounding area
- c) whether adequate living conditions could be created for the occupiers of the proposed dwelling, with particular reference to noise from nearby commercial activities.



### **Consultations:-**

No objection has been received from:-

Highways Agency  
Directorate of Chief Executive (Archaeology)  
Head of Corporate and Scrutiny Services (Green Spaces)  
The Borough Council's Arboricultural Consultant.

No objection subject to conditions have been received from:-

Environment Agency  
Severn Trent Water  
British Waterways  
Directorate of Chief Executive, LCC (Ecology)  
Head of Community Services (Land Drainage)  
Head of Community Services (Pollution).

Head of Business Development and Street Scene Services (Waste Minimisation) has concerns over the suitability of the designated waste/recycling points and has requested that a condition be imposed requiring a scheme to be submitted.

Head of Community Services (Pollution) states that in respect of air quality the accompanying air quality assessment is based upon traffic figures and therefore dependent upon the Highways Authority accepting the predicted traffic flows. As such, should the figures be changed the assessment must be revised and that the recommendations of the noise survey should be adhered to. Therefore the Head of Community Services (Pollution)

recommends conditions to secure a construction environmental management plan, specifications in windows to reduce noise and passive acoustic ventilation measures.

British Waterways has no objection to the scheme, subject to the imposition of planning conditions, including the retention of the existing hedgerow, hard and soft landscaping proposals including details of protective fencing during construction, and a lighting scheme.

Directorate of Chief Executive, LCC (Ecology) states that the recommendations within the accompanying documentation should be endorsed and that the width of the footpaths through the hedgerow to the north of the site should be minimised, the balancing pond should be re-sited to the north of the site, that a re-assessment of the dried out pond prior to the works should be undertaken and that no surface run off should be allowed to enter the canal from the application site.

The Inland Waterways Association accepts the principle of residential development, but is concerned to minimise the impact of the housing on the canal corridor and the further loss of its previously rural surroundings that the dwellings facing the canal frontage should not exceed 2.5 storeys.

Ashby Canal Association accepts the principle of residential development and accepts the visual intrusion on walkers and boaters to be minimal but considers that funding should be secured to improve the towpath and that a useful connection should be secured with the provision of the footbridge from the Sketchley Brook development. Ashby Canal Association also agrees with a reduction in the dwellings to 2.5 storey facing the canal frontage and raises concerns over congestion and visibility issues regarding the canal bridge, one access and lack of links to any adjacent developments.

The Leicestershire Constabulary Crime Reduction Officer has raised concerns in respect of plots orientation and design features offering little surveillance to key areas and has stressed the importance of an acceptable management procedure for the future security of the open spaces and has requested a condition for a street lighting scheme to be submitted.

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

- a) Director of Children and Young Peoples Services (Education) states that in respect of primary schools there are a number of schools within a two mile walking distance but that overall there is a deficit and a request for a contribution for the Primary School sector of £229,881.19 is sought. No contribution is being sought for high school given an overall surplus for the area. In relation to upper schools, a deficit of 8 places is created by the development resulting in a contribution of £146,841.28
- b) Director of Environment and Transport (Civic Amenity) states that the development would generate additional civic amenity waste at the Barwell Civic Amenity site a contribution of £3,883 is sought
- c) Director of Adults and Communities (Libraries) in respect of additional users of the existing library facilities at Hinckley Library on Lancaster Road a contribution of £5140 is sought
- d) Director of Environment and Transport (Highways) states that travel packs at £50.18 can be supplied by Leicestershire County Council equating to £4215.12; the provision of 6-month bus passes (2 application forms to be included in each Travel Pack to be funded by the developer at £331.20 with an estimated maximum 25% update equating to £13,910.00) and £9348.00 for two bus shelters at the two nearest bus stops
- e) Chief Executive (Ecology) does not request any financial contributions.



The Primary Care Trust requests a contribution of £35,348.54 towards the provision of health care facilities at Burbage Practice, Tilton Road, Burbage including an additional consulting and treatment space and other associated works.

British Waterways requests a contribution of £125,000 towards towpath widening and surfacing and replacement of the existing bank protection with hard wearing geotextile bank.

The Leicestershire Constabulary Crime Reduction Officer is seeking a total contribution of £32,864 and has requested the following:-

- a) Street signs and a smartwater property marketing kit - a contribution of £1260 is sought
- b) Speed gun to be used on the beat – a contribution of £2500 is sought
- c) 2 x digital lamppost mounted speed sign – a contribution of £6,000 is sought
- d) 2 x automatic number plate recognition cameras - £14,000 is sought (plus maintenance fees of £450 over five years) totalling £18,500
- e) 2 x mobile data terminals – a contribution of £4,040 is sought
- f) Cycle equipment – a contribution of £544 is sought.

Site notice and Press notice were displayed and neighbours notified.

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

- a) the reduction from 100 dwelling to 84 should not warrant a reason for approval
- b) loss of farm land; allowing last green open space be destroyed
- c) the 'sheep field' offers an open, safe play field away from vehicles in a health environment and is the final green field left in the area; the council have acknowledged this in previous applications
- d) no provision for a woodland or playing field or park in the area; this site could have been used for recreational purposes
- e) the final green area will destroy any opportunity for the local community to fund raise for help
- f) area is overdeveloped already; the development would have far less effect in other locations in Hinckley
- g) lowered quality of life
- h) open aspects from properties will be lost; loss of view; reduction in property price as a result of loss of view
- i) loss of privacy and overlooking from 2.5 and 3 storey properties directly opposite; the hedge along the western boundary is insufficient to deter overlooking
- j) request amendment to site layout to have the proposed housing fronting the western boundary or re-location of the Play and Open Space or balancing pond
- k) development adds no benefit to the area; no public social infrastructure has been provided; no benefits have been made by the developer
- l) significant financial contributions are being given to the council backhanders; bribes
- m) the balancing pond area should not be considered as part of the provision of open space; problems over future adoption
- n) balancing pond can be dangerous to the public and subject to flash flooding and not fenced off
- o) there should be no public access to the tow path due to children and danger.
- p) size of the proposed development will impact on the ecology and wildlife of the site
- q) site is on a flood plain; drainage problems; further flooding is likely
- r) detract from tourism.

The following concerns are all raised in respect of highway issues:-

- a) the assessment does not comply with HA requirement for connectivity with neighbouring developments
- b) no cycle provision made on the towpath; towpath is very narrow and can be dangerous for pedestrians and cyclists; developer should be required to upgrade the towpath
- c) existing insufficient road capacity; already at full capacity; if the Nutts Lane/Coventry road junction is acknowledged to be operating outside acceptable levels currently then how can the development not have a significant effect on it?
- d) impact of volume of pedestrian and vehicular traffic from site (and adjacent developments) leading to congestion and impacts and creation of 'rat run'
- e) impacts over volume of traffic upon the Nutts Lane Canal Bridge and wider impacts upon the A5 and Coventry Road junctions; traffic in the surrounding area should be re-routed; block off Nutts Lane from the A5
- f) widening of canal bridge required
- g) insufficient width for pedestrians and cyclists; no footpath over the canal bridge; are estimated walking times taking pushchairs/disabled users into consideration
- h) current state of road surface of Nutts Lane is unacceptable and without considerable remedial work would not be able to withstand the increased usage
- i) 200 year old bridge could collapse; no or little attention has been given to the state of repair of the bridge; application should be put on hold until this action has been undertaken; Weight restriction should be added to the bridge; Bridge should be given higher conservation status
- j) the proposals to alter the traffic light sequence is ill conceived; how long will the 'all red traffic stage' be as part of the changes proposed to the traffic light sequence over the canal bridge? – as a pedestrian could find themselves caught between the bridge. This is a further problem for the disabled and pushchairs
- k) a pedestrian controlled light crossing is required; A separate footpath constructed or a footbridge on either side of the bridge with a ramp access is required
- l) canal bridge should be blocked off with removable bollards (and this would be easier than changing the traffic light sequence)
- m) why are studs being inserted into the road? And these are likely to be worn away very quickly
- n) it is not clear what mitigation measures will be carried out in respect of highway movements and safety; no information on any upgrade works to Nutts Lane and/or Nutts Lane/Coventry Road junction; if there are proposed off-site upgrade works proposed then local residents should be made aware and relevant plans/information provided
- o) regular maintenance to cut trees should be enforced to allow a better view of the road; Signage and traffic lights in themselves pose obstacles to foot traffic.

A petition containing 79 signatures objecting to the scheme has been received.

Councillors David Bill and Don Wright have written a joint letter, objecting to the scheme on the following grounds:-

- a) excessive problems of queuing, grounding of lorries on the canal bridge and lack of footpaths
- b) proposal will lead to significant material increase in pedestrian, cycle and vehicular movement and the potential conflict between such road users
- c) existing pedestrian and cycle provision is inadequate; a new pedestrian and cycle crossing should be proposed over the canal, and new pedestrian and cycleway facilities all the way from the A5 to Coventry Road
- d) traffic lights should be installed at the junction of Coventry Road and Nutts lane
- e) all red proposed traffic lighting scheme is likely to lead to some users not being able to cross the canal bridge in time; at the very least lights should be pedestrian controlled.

f) garages and turning facilities should be adequate.

In light of the additional information submitted a comprehensive response is yet to be received from the Director of Environment and Transport (Highways).

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

Leicestershire Fire and Rescue  
Cyclists Touring Club.

The consultation period remains open at the time of writing and closes on 18 July 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.

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

This document states at paragraph 12 that good design is fundamental to the development of high quality new housing. Paragraph 13 reflecting policy in PPS1 states that good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to improve the character and quality of an area and the way it functions, should not be accepted. Paragraph 16 lists matters to be considered when assessing design quality; this includes assessing the extent to which the proposed development is well integrated with and compliments, the neighbouring buildings and the local area more generally in terms of scale, density layout and access.

PPS3 has very recently been updated to specifically refer to garden land not being Brownfield land and Paragraph 47 has been amended and 30 dwellings per hectare is no longer a national indicative minimum density to allow local planning authorities to develop their own range of policies whilst having regard to the continued need to develop land in the most efficient manner.

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 (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 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.

Planning Policy Statement 9 (PPS9): 'Biodiversity and Geological Conservation' requires Local Authorities to fully consider the effect of planning decisions on biodiversity including protected species and biodiversity interests in the wider environment. The broad aim is that development should have minimal impacts on biodiversity and enhance it where possible.

Planning Policy Guidance Note 13 (PPG13): 'Transport' set out the Government's commitment to transport and planning and confirms that highway safety is a paramount consideration in the determination of any planning application. Paragraph 6 states that Local Planning Authorities should accommodate housing principally within urban areas and promotes accessibility to services by public transport, walking and cycling and reduces the need to travel. Paragraph 29 states that when thinking about new development the needs and safety of the community should be considered and addressed in accompanying Transport Assessments.

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 rural locations.

Planning Policy Statement 23 (PPS23): 'Planning and Pollution Control' sets out national planning guidance on pollution of land, air and water.

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.

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

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

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

### Regional Policy Guidance

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

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

Policy 1 seeks to secure the delivery of sustainable development.

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

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

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

### Local Development Framework Core Strategy 2009

Policy 1: 'Development in Hinckley' set the development intentions for Hinckley, which includes the allocation of land for the development of a minimum of 1120 new residential dwellings and address the existing deficiencies in the quality, quantity and accessibility of green space and play provision in Hinckley as detailed in the Council's most up to date strategy and the play strategy, particularly in the south west and north east of Hinckley. New green space and play provision will be provided where necessary to meet to meet the standards set out in Policy 19.

Policy 15: 'Affordable Housing' seeks the provision of Affordable Housing on residential proposals within urban at the rate of 20% with a tenure split of 75% social rented and 25% intermediate housing.

Policy 16: 'Housing Density, Mix and Design' seeks to ensure that all new residential development provide a mix of types and tenures appropriate to the applicable household type projections. A minimum of 40 dwellings per hectare is required within and adjoining in Hinckley.

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

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

#### Hinckley and Bosworth Local Plan 2001

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

Policy NE5: 'Outside Development Limits' 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.

The site lies adjacent to Ashby-de-la-Zouch canal, with is a designated Conservation Area and is afforded protection through Policy BE7 and Policy REC6 of the Hinckley and Bosworth Local Plan.

Policy REC6: 'Ashby Canal Corridor' provides a corridor either side of the canal in order to protect the recreational and ecological value of the canal. Development is allowed within the corridor subject to specified criterion.

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

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

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

development of a larger area and ; does not adversely affect the occupiers of neighbouring properties.

Policy REC2: 'New Residential Development – Outdoor Open Space Provision for Formal Recreation' 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 NE14: 'Protection of Surface Waters and Groundwater Quality' seeks to protect the water environment.

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

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

#### Supplementary Planning Guidance/Documents

Supplementary Planning Guidance (SPG): 'New Residential Development' provides a series of standards that new residential development should achieve in respect of density, design, layout, space between buildings and highways and parking. It specifically states that the appropriate density of the development will be determined by the general character of the surrounding area.

The Council's Supplementary Planning Document (SPD): 'Play and Open Space' provides a framework for the provision of play and open space and financial contributions to support the requirements of Policy REC3.

The Council's Supplementary Planning Document (SPD): 'Sustainable Design' aims to support and encourage developers and applicants in delivering homes in line with national best practice guidance primarily the Code for Sustainable Homes for housing and delivery of sustainable development through the planning system.

The Council's Supplementary Planning Document (SPD): 'Affordable Housing' provides the background and approach to the Borough Councils delivery of affordable housing.

#### Other Material Policy Guidance

##### Draft Site Allocations and Generic Development Control Policies DPD 2009

The application site was publicised as a preferred option for residential development in the Draft Site Allocations and Generic Development Control DPD (February 2009). The Site Allocations Preferred Options Document was subject to public consultation during 2009.

This does not however, provide justification for permitting development ahead of the plans adoption as explained in Para 17, of ODPM's Planning System General Principles guide. Concern is raised that permitting this site could be considered premature and potentially set a precedent for other sites coming forward, thus undermining the LDF process. It is considered that at present the Site Allocations Document carries little weight.

#### Strategic Housing Land Availability Assessment (SHLAA) Review 2010

The SHLAA Review 2010 was published in April 2011 and the application site (AS293) was assessed through this process. The site was identified as suitable, available and achievable and, as a result, developable. In addition, a comment made within the SHLAA regarding this site noted 'Site is suitable because site is adjacent to settlement boundary and an appeal decision on the site has noted the site can not be classed as in open countryside. Regard must be had to adjacent Ashby Canal Conservation Area and the findings of the conservation area appraisal'.

#### Ashby Canal Conservation Area Appraisal

The Appraisal identifies a 30 metre margin being required for new development sites within Hinckley in order to maintain the canal's semi rural appearance within the town.

#### Landscape Character Appraisal

The Landscape Character Appraisal identified the site as being within Stoke Golding Vales Character Area E. Area E covering Stoke Golding, Higham on the Hill, Dadlington and Stapleton is described as being distinctly rural and largely tranquil, of high sensitivity with limited capacity for change.

#### Hinckley Town Centre Area Action Plan 2011

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

#### **Appraisal:-**

The main considerations in the determination of this application are the principle of development; five year housing land supply; impact upon the character and appearance of the countryside; impact upon the character and appearance of the Ashby Canal Conservation Area; overall appearance; impact upon residential amenity; highway considerations, development contributions and affordable housing, drainage and flood risk and other matters.

#### Principle of Development

The application site lies outside of the current settlement boundary of Hinckley, as defined on the proposals map of the adopted Local Plan and is therefore within an area designated as countryside.

Both Policy NE5 and RES5 of the adopted Local Plan seek 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 proposed residential development does not meet any of these criteria.

It should be noted that, since the adoption of the Local Plan the area to the west of the site has been developed and planning permission has recently been granted for residential development to the south of the site (Greyhound Stadium) as such it is considered that the site lies adjacent to the current built form of Hinckley.

In summary, accordance with Policies NE5 and RES5, residential development is not supported outside the settlement boundary. The application is therefore contrary to this policy unless there are material planning considerations that indicate that it is acceptable on other grounds and those considerations outweigh the harm caused to policy by the development.

### Five Year Housing Land Supply

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. 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 Leicester and Leicestershire Strategic Housing Market Assessment (SHMA) was one document that was used as part of the Core Strategy evidence base and the Core Strategy reflects the findings of the SHMA process. However, it reflects not just the document itself, which is fixed in time, but the ongoing process of understanding local housing markets, gathering evidence and data, and developing tools and models, which are likely to continue to evolve.

As a result of the need for flexibility in response to housing market conditions and in different housing markets within the local authority area, the SHMA provides robust and up to date evidence of housing need in the Borough. The Borough Council were part of the steering group for the production of this document and the authority provided a range of data sets to inform the assessment. The findings of the SHMA reflect the findings of the Regional Plan.

Another document that informed the Core Strategy was the Strategic Housing Land Availability Assessment (SHLAA). The SHLAA provided background evidence on the potential supply of housing land within the Borough. This document provided evidence to underpin the deliverability of the Core Strategy, in particular to justify that sufficient deliverable land can be provided on a variety of sustainable sites across the Borough. It is the quantum of deliverable housing land that is critical in underpinning the housing strategy outlined in the Core Strategy. It provides evidence, in general terms, that sufficient deliverable housing land can be provided to meet the Council's preferred approach to future housing growth. This approach allows for all residents of the Borough to have access to a suitable home which they can afford in a range of sustainable locations (when combined with the other spatial objectives of the core strategy). Whilst the SHLAA forms a single evidence strand in pulling together a preferred housing strategy that is considered deliverable for the core strategy it is important to recognise that it provides vital information in a number of areas. It provides a quantum of available and deliverable land in a range of settlements which have been assessed against a number of constraints (i.e. environmental, topographical, access and ownership). Importantly it also considers a timeframe for potential development.

The Regional Strategy has not been abolished and still forms part of the development plan. No transitional arrangements have been produced and therefore the housing figures

contained within the recently Adopted Core Strategy should still apply. As an authority a pick and choose approach to the contents of the Core Strategy cannot be adopted at this stage, as this would leave the authority with voids in policy.

The Government has not removed the requirement for a 5 year housing land supply from PPS3 in their recent amendments, therefore we must still utilise elements of the Regional Plan until transitional arrangements have been put in place.

As the Council have recently adopted the Core Strategy, the local planning authority should use the housing figures contained in the Adopted Core strategy. The housing figures contained in the Core Strategy have been independently inspected and were found to be sound through public examination. In light of the above, it is considered that the housing figures contained within the adopted Core Strategy are based on robust evidence and should continue to be used as part of the Borough Council's Adopted Development Plan.

As highlighted above, the requirement for a five year supply of housing land was not removed from PPS3 in its recent revisions published in June 2011. As a result, the five year supply of housing land should still be considered as part of this planning application and the Core Strategy requirements utilised for the reasons outlined above. With regards to the matter of housing supply, it is accepted that Hinckley & Bosworth Borough Council are unable to secure a 5-year land supply based on the monitoring figures set out below which are based upon the Core Strategy requirements.

PPS 3 sets out that Local Authorities should identify and maintain a rolling 5-year supply of deliverable land for housing. In particular at paragraph 71 the PPS states 'where Local Planning Authorities cannot demonstrate an up-to-date five year supply of deliverable sites' they should consider favourably planning applications for housing, having regard to the policies in PPS3 including the considerations in Paragraph 69'. This sets out the key criteria for considering applications including high quality design, mix, sustainability and efficient use of land.

The Local Authority is currently unable to secure a five year housing land supply of deliverable and developable sites. As of 1 April 2011, the cumulative shortfall of dwellings was identified as 750 dwellings (equating to 3 years and 7 months of supply). The adopted Core Strategy has been adopted and allocated a minimum of 1120 dwellings within Hinckley.

In considering the shortfall in the land supply position, Policy 1 of the Core Strategy allocates a minimum of 1120 dwellings to Hinckley to allow for flexibility in the level of housing provided. The proposal is for 84 dwellings and would count towards the housing requirement for Hinckley as set out in the Core Strategy.

The SHLAA Review 2010 was published in April 2011 and the application site (AS293) was assessed through this process. The site was identified as suitable, available and achievable and, as a result, developable.

The site has been identified (ref: HIN03) as a preferred option for residential development in the Draft Allocations and Generic Development Control Policies Plan Document (February 2009). This is in draft form only and has not yet been subject to independent examination by the Planning Inspectorate (and as such, no or little weight can be given to this, as it is not an adopted document). As such this does not provide justification for permitting development ahead of the plans adoption as explained in Para 17, of ODPM's Planning System General Principles guide. Concern is raised that permitting this site could be considered premature and potentially set a precedent for other sites coming forward, thus undermining the LDF process.

In summary, whilst it would be preferable for the site to be considered in line with the LDF process, it is considered that the approval of this application would bring forward 84 units and contribute towards the Core Strategy housing requirement for Hinckley; contribute towards addressing the shortfall in the overall five year housing land supply and the provision of affordable housing units in an area of identified need. It should be noted however, that the lack of 5 year housing supply alone does not legitimate the approval of inappropriate and non-preferable sites, and should be considered alongside a number of other material considerations, which are considered later in this report.

#### Impact upon the Character and Appearance of the Countryside

As discussed earlier in this report the application site in policy terms lies outside of the defined settlement boundary for Hinckley and is within the countryside.

Within the latest appeal decision (ref: 06/000786/OUT) for residential development, the Planning Inspector stated that the site was adjacent to the settlement of Hinckley and could not be considered as 'open countryside' and acknowledged that there was a lessening of urban influence moving southwards along Nutts Lane, but that it was also important to maintain the semi-rural character of this part of Nutts Lane.

Whilst the site is located outside the settlement boundary, since the previous submission, the area to the west of the site has subsequently been developed for residential purposes and it is therefore considered that the application site lies adjacent to the current form of Hinckley. In addition, following the approval of residential development on the former Greyhound Stadium to the south of the site, the application site is now largely bound by built development. Beyond this site to the south, is the adjacent railway line and it's associated embankment with mature landscaping which are considered to provide both visual and physical separation from the countryside beyond.

The density, layout and appearance of the proposed development are discussed later in this report but it is considered that there is no identified harm upon the character and appearance of the countryside.

In summary, whilst there is a presumption against development in the countryside, it is considered that this site in context within the surrounding development does not represent a 'typical' rural countryside location and for that reason and for the reasons discussed later in this report, it is considered that it would remain difficult to sustain an objection based on the impact of the development on the character and appearance of this countryside in this setting. Given the current shortfall in housing supply and the weight placed on maintaining a rolling five year-housing land supply as set out in PPS3, this is considered a significant material consideration in the determination of this application and one which would outweigh the objection in principle of development within this 'countryside' setting, providing that all other planning matters can be adequately addressed. For the reasons discussed later in this report, it is considered that the development would be carried out in accordance with the relevant development plan policies and central government guidance.

#### Impact upon the Character and Appearance of the Ashby Canal Conservation Area

The site lies adjacent to Ashby Canal, which is a designated Conservation Area and is afforded protection through Policy BE7 and Policy REC6 of the Hinckley and Bosworth Local Plan. It is a statutory requirement that any new development should at least preserve the character and appearance of the Conservation Area.

Both the Inland Waterways Association and Ashby Canal Association accept the principle of residential development, however both raise concerns in respect of the 3 storey residential units facing the canal frontage.

Whilst Ashby Canal runs through predominantly rural locations, the local section of the canal passes through the suburbs of modern Hinckley, where residential canal side development is more common. Modern, high rise residential development is visible to the north and south of the canal corridor (north and west of the application site, respectively) and as such it is not considered that the 2.5 and 3 storey proportions is considered to affect the local character of the canal's setting.

It is also considered that the range of 2; 2.5 and 3 storey proportions to the canal frontage provides an interesting and varied streetscape and will not significantly impact upon the canal corridor given the distance of a 15 – 30 metre separation zone between the canal and the residential dwellings. In addition, the existing hedgerow providing natural screening it set to be retained.

In summary, given the distance, proposed design and natural screening, it is considered that the development would preserve the character of the Ashby Canal Conservation Area. Accordingly the scheme is considered to be in accordance with Policies BE7 and REC6 of the Local Plan.

### Overall Appearance

#### Density

The application proposes 84 dwellings on a 2.6 hectare site equating to a net density of 32 dwellings per hectare (dph) excluding the public open space. Amendments to PPS3 in June 2010 removed the national minimum indicative of 30 dph, although Policy 16 of the adopted Core Strategy seeks a density of at least 40 dph within and adjoining Hinckley. It also states that in exceptional circumstances, where individual site characteristics dictate and are justified, a lower density may be acceptable.

In this case, the presence of Ashby Canal to the north of the site and the employment area to the east are constraints to development of the site and it is also considered that taking into account the semi rural nature of the site and the likely impact of development on the Ashby Canal corridor that a high density would not be suitable in this location. The development follows a similar density to that of the residential site to the south (38.7 dph) which reflects that of the neighbouring Waterside Park scheme. Accordingly the density is therefore considered to be acceptable on this edge of town location.

#### Layout

The layout proposes one main access road off Nutts Lane, with one main road running west, north, and west again and south, with a hierarchy of routes feeding off, creating a grid ironed approach. The layout of the development is broadly linear in design, reflecting the linear form of the canal to the north and considering the need to incorporate SUDS. The series of secondary roads, defined by the variations in surfacing materials create a series of clusters of development including two cul de sacs in the centre of the site.

On site, incidental play space is located along the canal towpath, creating a focal point and is overlooked by a number of dwellings ensuring natural surveillance.

The proposed dwellings that are sited along the main access road within the site have all been designed to face onto the main road, with dwellings on secondary roads varying in their orientation. All amenity spaces are provided to the rear of the plots.

The layout to the east of the site has ensured that dwellings are facing onto Nutts Lane, to create an aesthetical streetscene when viewing the site from Nutts Lane. On entering the site, units to the north (plots 17-20) also propose parking to the front, whilst those to the south (plots 80-84) have parking provision to the rear. This ensures that parking does not dominate when entering the site. Given the orientation of plots in the centre of the site it appears as if 'car courts' have been created, however it is considered that this has been broken up by the addition of landscaping and vegetation.

Dwellings which occupy prominent positions on corners plots have been carefully considered to ensure that there are no dull or blank frontages.

Two, three and four bed dwellings propose appropriately sized gardens in accordance with the standards set down in the Council's SPG on New Residential Development. The proposed two bed flats (House Type F) fail to provide any private amenity space, and developments of this nature are normally expected to provide a degree of outside space. However, given the provision of open space on site and the proximity to equipped open space (to the south of the site at the Crest Nicholson development) in addition to the fact that open space could only be provided at the loss of parking, in this case it is considered that there are greater planning gains to be had by the scheme currently proposed.

British Waterways stated that the canal side development would have been better sited closer to the canal in order to increase the level of engagement with the canal. It is considered that the separation zone of between 15-20 metres between the canal and plots 24 to 49 has been adhered to following the requirements as sets out in the Ashby Canal Conservation Area Appraisal. This distance has also been adhered to, to minimise impacts upon the ecology and biodiversity of the hedgerow and canal.

Following concerns raised by officers and the concerns outlined by the Leicestershire Constabulary Crime Reduction Officer, the layout and surveillance of garages and courtyards are currently being amended. In addition, concern is raised in respect of the layout of the sites frontage (plots 24-33 and 41-49) and discussions are currently taking place with the applicant to secure some revision to the overall appearance of the public realm in this area. The outcome of the discussions will be provided as a late item.

### Scale

The application site is bound to the north and west by residential dwellings and to the south residential dwellings are currently under construction. High residential apartment and flat units are sited to the north and north west of the site at Herons Court and Waterside and Kingfisher Courts, respectively, whilst to the west and south of the site, two storey detached, semi detached and terraced properties are more common.

The scheme proposes a range of flats, detached, semi-detached and terraced dwellings of two, three and four bedrooms which occupy fairly similar footprints within the scheme, but propose differing 2, 2.5 and 3 storey proportions. Given the range of residential types and scales within the immediate vicinity, it is considered that the differing scales proposed add interest and ensures that the proportions do not appear out of scale or character within the surrounding setting.

## Design

In relation to the visual appearance of the built environment, there are a range of house types proposed within the scheme. Each house type is fairly simplistic in design but proposed different scales, materials and design features such as chimney stacks, window detailing, dormer windows, brick arch headers, brick dental string courses and canopies over the front door. It is considered that the design, particularly window and door details largely reflects that of Hinckley's history with the hosiery industry.

A number of brick and tile samples are proposed; Hanson Chatsworth Multi, Hanson Brekland Multi Reserve; Hanson Abbey Buff Multi and cream render for the walls with Redland Ministonefold Farmhouse Red, Redland Ministonefold Brekland Brown, Redland Ministonefold Slate Grey and Redland Ministonefold Brekland Black. The acceptability of these external finishes has not been fully considered as the Local Planning Authority would request that samples are first submitted to and approved, which can be secured by the imposition of a planning condition.

## Hard Landscaping

In respect of other visual elements there is a mixture of frontage parking, and single and double garages which are subservient in scale and using similar materials to the proposed dwellings. In addition, whilst soft landscaping will be considered later in the report it is considered this adds aesthetics to the overall appearance of the site.

The application shows a mixture of 1.8 metre high brick wall (with brick edge), 1.8 metre high close boarded fence; 1/8 metre high timber panel larch lap fence; 1.2 metre high timber post and rail fence; 0.4 metre high timber knee rails, 1.3 metre high black flat top steel railing, as well as 1.8 metre long timber bench and black steel bollards. The appearance of the fencing is appropriate in its appearance and will not be harmful to the overall design concept of the scheme and the character of the immediate area.

## Soft Landscaping

The application has been accompanied by landscape softworks and hardworks plans which details the general tree planting, play and open space planting, hedge planting, bulb planting and on plot planting (as well as hard works surfacing, boundaries and furniture). Overall there are 135 additional trees proposed on site.

The on site play and open space is intended to be to the north of the site bordering the canal, whilst there are other areas of landscaping bordering the south of the site and throughout the site through the creation of the SUDS.

The scheme has been considered by the Head of Corporate and Scrutiny Services (Green Spaces) who stated that the location of the open space along the canal corridor maintains the open aspect of the canal corridor and allows access to and from the tow path enabling good connectivity from the development to other green infrastructure via the canal. In terms of the proposed planting, it was considered that the native planting to the north of the site would enhance the value of the canal as a wildlife corridor.

In respect of the future adoption of the open space, the Head of Corporate and Scrutiny Services (Green Spaces) is prepared to consider the adoption of the open space subject to it being constructed and maintained to an acceptable standard.

The level of planting is considered appropriate to contribute to the overall 'semi rural' character of the area and will contribute to the visual amenity of the development.

In summary, it is considered that the range of flats, terraced, semi-detached and detached properties of 2, 3 and 4 bedroom configuration and 2, 2.5 and 3 storey proportions adds interest and provide strong attractive street scenes and improves the visual amenity of the site, softened by the variation in architectural detailing, materials, surfacing, boundary treatments, trees, landscaping and a well defined public focal point. However as discussed above, discussions are still underway to improve the layout of the scheme on the canal side frontage and it is also considered necessary to impose hard and soft landscaping conditions to improve the overall appearance of the site.

Accordingly the scheme is considered to be in accordance with Policies NE5 and BE1 of the Local Plan.

### Impact upon Residential Amenity

The site is bordered by residential dwellings to the south and west of the site and beyond the Ashby Canal to the north. Objections have been raised in respect of the loss of open aspects, privacy and overlooking from 2.5 and 3 storey properties.

The neighbouring residential dwellings most immediately impacted upon as a result of the proposal would be dwellings located to the east side of Paddock Way, located to the west of the application site. There would be a distance of 12.5 metres between the side elevation of Plot 58 and the rear elevations of No's 128 and 130 Paddock Way. There are no windows proposed in the side elevation of Plot 58 and whilst the Council's SPG on New Residential Development usually seeks a distance of 14 metres between a blank wall and window of a habitable room, it is considered that the distance of 12.5 metres would not result in any material impacts. It is considered that given the mature hedgerow to the boundary of the site, that this would screen and mitigate against the visual impact of the dwelling and given that no windows are proposed, no overlooking should arise. As such, whilst 12.5 metres is not in strict conformity, it is not considered to be significantly detrimental in this case.

Residential dwellings are currently under construction to the south of the site. On completion, it is considered that there would be a distance of a minimum of 26 metres between the neighbouring and proposed dwellings. Given the distance and presence of the hedgerow serving the boundary which is to provide screening, it is not considered that there would be any significant material impacts upon residential amenity.

Whilst there are residential dwellings to the north, beyond the Ashby Canal, it is considered that there is sufficient distances between the existing and proposed residential units for there not be any significant impacts upon residential amenity. There are no residential dwellings located to the east of the site.

The previous outline application (ref: 06/00786/OUT) was also refused on the grounds of the likely un-satisfactory living environment for the future occupiers of the proposed development by reason of noise, arising from the activities of existing businesses in close proximity to the site. However, it should be noted that at the public inquiry the Planning Inspector concluded that agreed mitigation measures could be ensured by planning conditions to overcome this issue.

Within this application the accompanying Noise Assessment concluded that the proposed dwellings (Plots 1-10 and 84) adjacent to Nutts Lane facing the industrial estate will require specific noise control measures. Properties with windows serving habitable rooms will need to provide minimum sound reductions, over and above that of the normal thermal double glazing specification and that passive acoustic ventilators can be installed within the walls of habitable rooms. The Assessment also recommended that Plot 84 should be enclosed by

1.8 metre high close boarded timber fencing. The Noise Assessment has been considered by the Head of Community Services (Pollution) who has requested specific conditions, in line with the Noise Assessment recommendations, securing sound attenuation measures for future occupiers of Plots 1-10 and 84 fronting Nutts Lane. The Head of Community Services (Pollution) has also requested a condition to secure a construction environmental management plan. As such, it is considered that appropriate mitigation measures should be secured through the imposition of planning conditions.

In response to neighbouring letters of objection, to the west of the site only 2 storey proportions are proposed, ensuring that the proposed dwellings do not dominate or overlook the neighbouring dwellings. The majority of dwellings proposed to the south of the site are 2 storey, with some 2.5 storey proportions, however the distance to the neighbouring development should ensure that no overlooking should arise. The majority of 3 storey dwellings are proposed to the north of the site along the canal frontage, where there is a distance of some 33 metres between the proposed dwelling and dwellings at Herons Court, which similarly are of 2 and 3 storey proportions. As such it is not considered that the proposed dwellings would result in any significant overlooking upon surrounding neighbouring dwellings.

Issues of noise and air pollution are not considered to be significant considerations in the determination of this application. Whilst the creation of new homes will undoubtedly give rise to an increase in cars in the area there is no evidence to suggest that this would be to the detriment of existing residents.

A right to view and de-valuation of properties are not material planning considerations.

In summary, the scheme is considered to have minimal impacts upon the amenity of surrounding neighbouring residents and future occupiers of the site. Accordingly the scheme is considered to be in accordance with Policy BE1 of the Local Plan.

#### Highways Considerations; Access, Parking Provision and Impact on the Local Highway Network

A new vehicular access is proposed to the east of the site from Nutts Lane. Footpaths and cycle routes are provided to the north of the site along the canal frontage which involve the creation of two access points in the existing hedgerow to connect to the existing towpath. A footpath and cycle route is provided to the south of the site, which is also intended for vehicles to gain access for future maintenance of the SUDS scheme.

A total of 135 car parking spaces are provided within the site and all new dwellings will be provided with at least one allocated parking space; 88 are allocated with an additional 47 additional unallocated spaces for visitor parking proposed. The majority of parking are allocated spaces, although there are a number of garage units (with accommodation above) and single and detached garages interspersed throughout the site. Parking has been divided up within the scheme so that some is within the highway, to the front or side of the dwelling, although it is predominantly provided to the front of dwellings.

The majority of the objections raised by neighbouring residents concern the impact of vehicular movements on the canal bridge, the immediate and the local highway network, the inadequacies of footpaths within the site, along the towpath and over the canal bridge and general highway safety.

In response to the letters of representation received, during the course of the application, amended plans have been received to show extensions to footpaths fronting dwellings to the proposed footpath to the south of the site in order to improve the permeability and legibility of



the scheme. Discussions are also ongoing with the applicant to secure increased connectivity with the site and neighbouring developments to the south and west, with particular regard being made to the permeability of future occupiers accessing the equipped play space to be provided within the Crest Nicholson site to the south.

In respect of the concerns raised by the state of the canal bridge, for the avoidance of doubt the Canal Bridge is owned by British Waterways and as such falls outside the remit of the Borough Council. The professional view of Leicestershire County Council is that the bridge is structurally sound and British Waterways have not requested a weight restriction order or signs.

At the time of writing the report the observations of the Director of Environment and Transport (Highways) have not been received and will be reported on as a late item.

In summary, the Highways Agency has no objection to the scheme with regards to the impact upon the A5 Trunk Road, however representations from the Director of Environment and Transport (Highways) have not yet been received and as such his comments are awaited and will be reported on as a late item.

#### Developer Contributions and Affordable Housing Provision

The application proposes 84 residential units which attracts infrastructure 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.

#### Affordable Housing

As the site falls within the 'urban area' (although outside the settlement boundary) the proposal should provide 20% affordable housing with a tenure split of 75% social rented and 25% intermediate housing,

The applicant has committed to providing 23% affordable housing within the draft Heads of Terms with a tenure split of 75 % for social rented and 25 % for shared ownership, which is in accordance with Core Strategy Policy 15. This equates to the provision of 17 affordable units; 12 for social rented and 5 for intermediate tenure.

Of the 12 social rented, 4 of these are 3 bedroomed units and 8 are 2 bedroomed units and of the 5 shared ownership houses, 3 are 3 bedroomed units and 2 are 2 bedroomed units.

The latest Housing Register in Hinckley stated that 269 applicants were looking for 2 bedroomed properties, 81 looking for 3 bedroomed properties and 20 for 4 or more bedroomed properties. It is considered that there is a high demand within Hinckley and the provision in this development is welcomed.

It is considered that there is an identified need for a range of affordable units in Hinckley and as such it is considered necessary to provide them within this development. This scheme, falling on the outskirts of Hinckley, and providing a number of units which has triggered the request for affordable housing in line with Core Strategy Policy 15 is considered to be directly related. The amount and type requested is also considered fairly and reasonably related in scale and kind to the development proposed. It is therefore considered that the request for

affordable housing requirements meets the requirements of the Community Infrastructure Levy (CIL) 2010.

The provision of the affordable housing is being secured through the draft S106 agreement submitted with the application. Accordingly the scheme would meet the requirements of Policies 15 of the adopted Core Strategy, supported by the Council's Supplementary Planning Document on Affordable Housing.

#### Play and Open Space Contributions

The application proposes to create 0.13 hectares of public open space within the site to the north bordering the canal. The Head of Corporate and Scrutiny Services (Green Spaces) has agreed in principle to the future adoption of this space subject to it being constructed and maintained to an acceptable standard. This has attracted a contribution of £13,515.00 for the maintenance as an informal children's play space.

A shortfall in the required provision of equipped children's play area means that an off site contribution is required. It has been identified that the application site is located within 400 metres of equipped place space at the Crest Nicholson development to the south of the site and as such a financial contribution will be secured against this site. A contribution of £60,933.60 is required for the provision and £29,694.00 for the maintenance. This equipped play space has not yet been constructed but the S106 agreement with the application (ref: 09/01007/FUL) ensured that it would be under the ownership of the Borough Council.

Similarly off site contributions will also be required for formal open space. The application site falls within 1 kilometre of Langdale Road Recreation Area and as such financial contributions of £27,115.20 for the provision and £22,176.00 for the maintenance is sought. Within the Green Space Strategy 2005-2010, Hinckley was found to have a deficiency of outdoor sports (-12.50) for its population when compared with the National Playing Fields Standard. In addition, the Head of Corporate and Scrutiny Services (Green Spaces) has requested financial contributions for the improvement to the pavilion as changing rooms, toilets and kitchen facilities, following an increase in demand.

Accumulatively the development attracts contributions for play and open space of £153,433.80.

Given the size of the units proposed it is considered that these would appeal to families and given the proximity of the application site to the Crest Nicholson equipped play area and Langdale Road Recreation Area, it is considered that the future occupiers would use the facilities and increase the wear and tear of the equipment and facilities on these sites. It has also been found that Hinckley has a deficiency of outdoor sports facilities and that there are specific works required to improve the quality of the Recreation Area relating to this development.

It is considered that the play and open space contributions is required for a planning purpose, it is directly related to the development and fairly and reasonably relates in scale and kind to the proposal, and a contribution is justified in this case. Accordingly the scheme would meet the requirements of Policies 1 and 19 of the adopted Core Strategy, Policies REC2 and REC3 of the adopted Local Plan, supported by the Council's Play and Open Space SPD.

### Other Developer Contributions

The consultation responses as set out in the above sections of this report specify the requests from:-

- a) Director of Children and young Peoples Services (Education) requests £229,881.19 for the Primary School sector and £146,841.28 for the Upper School sector
- b) Director of Environment and Transport (Civic Amenity) requests £3,883.00
- c) Director of Adults and Communities (Libraries) requests £5140.00
- d) The Primary Care Trust requests £35,348.54
- e) British Waterways requests £125,000.00
- f) The Leicestershire Constabulary Crime Reduction Officer requests £32,864.00
- g) Director of Environment and Transport (Highways) states that a some of £4215.12 is required for travel packs, with the provision of 6-month bus passes (2 application forms to be included in each Travel Packs)– estimated maximum 25% update equating to £13,910.00 and £9348.00 for two bus shelters at the two nearest bus stops.

On consideration of all of these requests received in respect of this application it is considered that the following meet the tests as set out in the CIL 2010:-

- a) Affordable Housing – (17 units)
- b) Play and Open Space – (£153,433.80)
- c) Education – (£376,722.47)
- d) Public Transport (£27,473.12 – minimum as based on 25% up take on bus passes)
- e) Canal towpath improvements (to be agreed).

A draft Heads of Terms is under negotiation to secure the above mentioned financial contributions and provision of affordable housing units.

### Drainage and Flood Risk

The site is located within designated Flood Zone 1 with the Ashby Canal located within 20 metres of the site. The scheme proposes swales – sustainable storm water drainage systems, a balancing pond and a pumping station. Foul sewage is to be disposed of via connecting to an existing mains sewer system with surface water by the proposed swales and balancing ponds. The accompanying Flood Risk Assessment has been considered by the statutory consultees, all of whom have no objections, subject to the imposition of planning conditions.

As such it is considered necessary to attach a condition to ensure that the development is carried out in accordance with the accompanying Flood Risk Assessment; a detailed surface water drainage scheme is submitted based on Sustainable Urban Drainage Scheme (SUDS) principles including an assessment of the hydrological and hydrogeological context of the development and a scheme to install trapped gullies will also be required to first be submitted to and approved by the Local Planning Authority.

In respect of future adoption, the Head of Community Services (Land Drainage) has agreed in principle to the adoption of the balancing ponds and swales. The pumping station should be adopted by the water service provider and as such it is considered that Severn Trent should agree to adopt, operate and maintain the proposed surface water pumping station. As such, re-consultation has been undertaken with Severn Trent Water and their comments will be reported on as a late item.

In response to concerns raised regarding the fencing off of the balance pond, the Head of Community Services (Land Drainage) states that balancing ponds and swales should be an integral part of the landscape and if possible made accessible by paths or green corridors.

In summary, both the Environment Agency and Severn Trent Water have no objection to the scheme, subject to the imposition of planning conditions. Accordingly it is considered that the proposed works will be in accordance with Policy NE14 of the Local Plan and guidance contained within PPS25.

### Other Matters

#### Ecology and Biodiversity

The site has previously been designated at Parish level as a site of ecological interest (SINC), however the Directorate of Chief Executive, LCC (Ecology) has confirmed that the site has been re-seeded and has subsequently lost its ecological interest.

It should be noted, however that the site abuts the Ashby Canal which is a wildlife corridor and careful consideration needs to be given to the siting of development and the likely impact on the character and value of the Ashby Canal.

The application has been accompanied by an Arboricultural and Ecology Report.

The Arboricultural Survey has been considered by the Borough Council's Arboricultural Consultant who has stated that there are few trees of value and those that are, are located off-site and appear to be clear of proposed building construction. British Waterways have requested that a condition be imposed for the retention of the existing hedgerow to the north of the site, including protective fencing during construction. As such it is considered necessary to attach a condition to secure this.

The Ecology Report makes a number of recommendations which have been supported by the Directorate of Chief Executive (Ecology). These include that all hedgerows must be enhanced where possible and a management plan put in place; all new planting to be undertaken using native species and that no lights should be shone directly at the canal of the hedgerow alongside the towpath or the balancing pond. In addition, British Waterways have no objection to the scheme, subject to the imposition of planning conditions, including the retention of the existing hedgerow and a lighting scheme. As such it is considered necessary to impose these conditions.

The Directorate of Chief Executive, LCC (Ecology) also recommends that a re-assessment of the dried out pond should be undertaken; that the balancing pond should be re-sited to the north of the site; and that no surface run off should be allowed to enter the canal from the application site. In response to these issues, it is considered that the location of the balancing pond has been carefully considered to ensure that surface water run off is directed from the north of the site to the south west of the site, through the use of the swales to ensure that surface run off does not enter the canal from the application site. In addition the re-assessment of the dried out pond is not considered necessary given that the Directorate of Chief Executive, LCC (Ecology) acknowledges that the replacement of the existing dry pond with the balancing pond and the swale features is considered to further enhance the sites biodiversity value.

In response to British Waterways request to re-site the residential development closer to the canal in order to provide a better engagement between the development and the canal, it is considered that the buffer zone between 15 to 30 metres between the canal and residential units ensures that the level of light upon the canal and hedgerows is minimal.

In summary, it can be concluded that the proposal will not have any adverse impacts upon any sites of ecological important or protected species subject to the imposition of conditions to secure the retention of the hedgerows, further hedgerow enhancement and a sensitive lighting strategy being employed across the site. Accordingly it is considered acceptable in relation to guidance contained in PPS9.

### Archaeology

The application has been accompanied by an Archaeological Desk Based Assessment which revealed that the site did not hold any designated heritage assets of archaeological interest. This has been considered by the Directorate of Chief Executive (Archaeology) who concluded that given the lack of archaeological finds during the previous archaeological evaluation, it is unlikely that archaeological remains will be affected by the proposals and that no further archaeological investigation will be required in this case. As such no further consideration on this matter is required.

### Sustainability

The Environment Agency has recommended that the installation of fittings that will minimise water usage such as low, or dual, flush WC's, spray taps and economical shower-heads in the bathroom are installed. Water efficient versions of appliances such as washing machines and dishwashers are also recommended. For outdoors waterbutts and rainwater harvesting system the Environment Agency considered that simple treatment systems exist that allow rainwater to be used to supply WC's within the home. In line with Policy 24 of the Adopted Core Strategy, the residential units to be constructed on this site will need to be constructed to a minimum of Code Level 3 of the Code for Sustainable Homes. The details of the schemes compliance with this standard will be subject to the imposition of a planning condition. As such it is considered that the recommendation by the Environment Agency will be covered by the development being constructed to this Code Level 3 standard.

### Storage of Refuse/Recycling Facilities

The scheme has been considered by Head of Business Development and Street Scene Services (Waste Minimisation) who states that the collection point areas will not be suitable for servicing and that the designated areas on this drawing appear far too small and four of the points will be inaccessible to the Council's vehicles. As such, Head of Business Development and Street Scene Services (Waste Minimisation) has requested that a condition is proposed ensuring that details for waste and recycling storage across the site will first be agreed in writing by the Local Planning Authority.

### Phasing of the Development

During the course of the application the applicant has provided a phasing plan that details that the development will be constructed in eight phases.

Phase one proposes the construction of plots 80-83 in the south east corner of the site, with plot 83 to become the sales house. Phase two proposes the construction of plots 1-10 and 17-20 to the east of the site, including the provision of four affordable units. Phase three completes the construction of the dwellings to the east of the block by completing plots 11-15. Phase four relates to plots 21-23; 34-36; 69-79 in the centre of the site, whilst Phase five- the largest phase - incorporates plots 24 – 38 and 41-39 which front the canal and plots 37-40; 50-52; 61-68 to the mid/west of the site. Phase six is the construction of plot 84, which up until this time is intended to be used for the sales car park. Phase seven proposes the construction of plots 58-69 the last of the affordable units with phase eight completing proceedings with the construction of plots 53-57.

During the construction, sales parking is proposed to the frontage of Nutts Lane on plot 84 (up until phase 6) whilst the site car park, site office and materials store will be provided to the west of the site.

In the current economic climate it is necessary for Local Planning Authorities to consider and where possible, adopt a flexible approach to the delivery of development. It is however, considered necessary to consider the level of affordable units providing throughout the phases. The total Number of affordable units by the end of each phase of the development are; Phase one: 0 units; Phase two: 4 units; Phase three: 4 units; Phase four: 6 units; Phase five: 14 units; Phase six: 14 units; Phase seven: 14 units; Phase eight: 17 units. This is being assessed and will be reported as a late item.

The phasing of the development is being secured within the draft S106 agreement.

### Conclusion

In conclusion, whilst the application site is outside the settlement boundary of Hinckley, where policies RES5 and NE5 apply, it is considered that the lack of 5-year housing land supply is a significant material consideration which could overcome these policy based objections. This site would address part of the current shortfall within the Hinckley area and it is therefore considered that the site is currently acceptable for residential development.

It is considered that subject to amended plans being received to address the layout of the canal side frontage, the design and mix of housing is considered acceptable and will provide a high quality scheme with strong attractive street scenes, a well defined public focal point and architectural detailing and the use of materials which reflects the locality. Further clarification is required as to whether the scheme is acceptable from a highway point of view and the S106 agreement is currently under negotiation.

Subject to the acceptability of these it is recommended that planning permission be granted, subject to the imposition of planning conditions.

### **RECOMMENDATION:-**

**That subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section III of the Local Government Act 1972 towards the provision of affordable housing, the provision and maintenance of public and open space facilities, education, canal towpath improvements; public transport provisions and public realm specifications by 18 August 2011, the Deputy Chief Executive (Community Direction) be granted powers to issue full planning permission, subject to the conditions below. Failure to do so by 18 August 2011 may result in the application being refused.**

### **Summary of Reasons for Recommendation and Relevant Development Plan Policies :**

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it: would contribute to the current shortfall in the five year housing land supply and to the shortfall of dwellings required in the Hinckley area; would not have an adverse impact upon the character and appearance of the countryside and preserve the Ashby Canal Conservation Area; would not have an adverse impacts upon flooding, ecology, biodiversity and archaeology or residential amenity; and would contribute to the provision of affordable housing and other infrastructure and services.

Hinckley and Bosworth Local Plan (2001):- Policies NE5, REC6, BE7, RES5, IMP1, BE1, REC2, REC3, NE14, T3, T5, T9 and T11.

Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (2009): - Policies 1, 15, 16, 19 and 24.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The application hereby permitted shall not be carried out otherwise than in complete accordance with the amended application details as follows:-

Site Location Plan Drawing No; LP-01; Site Layout Drawing No; SL-01 Revision J; Site Layout – Coloured Drawing No; SL-COL-01 Revision B; Existing Site Topography Drawing No; No. Figure 2; Site Sections – Sheets 1 and 2 Drawing No's; SC-01 Revision B; SC-02 Revision A; Street Elevation- Sheets 1 and 2 Drawing No's SE-01 Revision B; SE-02 Revision B; Materials Layout Drawing No; ML-01 Revision A; Boundary Treatments and Site Furniture Indicative Image Sheet Drawing No's; L-05 Revision A; Landscape Softworks and Hardworks Plan-Sheets 1 to 4 Drawing No's; L-01 Revision D; L-02 Revision D; L-03 Revision D; L-04 Revision D received by the Local Planning Authority on 19 May 2011; Phasing Plan Drawing No; PH-01 received by the Local Planning Authority on 24 June 2011;

House Type A Drawing No's; A-01 Revision C; Drawing No; A-02 Revision C; Drawing No; A-03 Revision A; Drawing No; A-04 Revision A; House Type B Drawing No's; B-01 Revision C; B-02 Revision D; B-03 Revision D; B-04 Revision A; B-05 Revision A; B-06; House Type D Drawing No's; D-01 Revision C; D-02 Revision C; D-03 Revision D; D-04 Revision A; D-05 Revision A; D-06 Revision A; House Type E Drawing No; E-01 Revision B; E-02 Revision C; E-03 Revision A; House Type G Drawing No's; G-01 Revision A; G-02 Revision A; House Type H Drawing No's; H-01 Revision C; H-02 Revision C; H-03 Revision B; H-04 Revision A; House Type W Drawing No's; W-01 Revision B; W-02 Revision C; House Type X Drawing No's; X-01 Revision C; X-02 Revision C; House Type Y Drawing No's; Y-01 Revision B; Y-02 Revision C; Cycle Shed Drawing No's; CS-01; Single Garages Drawing No; GA-01 Revision A; Double Garages Drawing No; GA-02 Revision A; Quadruple Garage Drawing No; GA-03 Revision A received by the Local Planning Authority on 24 June 2011; House Type F Drawing No's; F-01 Revision D; F-02 Revision D; F-03 Revision A; F1-01 Revision D; F1-02 Revision E received by the Local Planning Authority on 29 June 2011.

- 3 Notwithstanding the submitted details, before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 Notwithstanding the submitted plans, no development shall commence until a detailed scheme of the external appearance of the proposed pumping station is first submitted to and approved by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme.
- 5 No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The approved proposed

ground levels and finished floor levels shall then be implemented in accordance with the approved details.

- 6 No development shall take place until details of a scheme to safeguard the existing hedgerow along the northern boundary (except where it is proposed to be removed to create pedestrian access to the towpath) of the site (including full details of protective fencing to be erected) during construction of the development have first been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved.
- 7 Notwithstanding the submitted plans, no development shall take place until full details of hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:-
  - a) Planting plans
  - b) Written specifications
  - c) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
  - d) Maintenance schedule
  - e) Implementation programme
  - f) Areas to be grassed
  - g) Treatment of hard surfaced areas (including the footway access from the site to the adjacent canal towpath)
  - h) Details of the landscape management plans for the hedgerow to the northern boundary in its entirety.
- 8 The approved soft and hard landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 9 Notwithstanding the submitted plans, no development shall commence until a detailed scheme that makes provision for waste and recycling storage across the site has first been submitted to and approved in writing by the Local Planning Authority and these works shall be implemented in accordance with the approved scheme. The details shall address:-
  - a) The accessibility to storage facilities for residents/collection crew
  - b) Adequate collection point space at the adopted highway boundary.
- 10 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 9 May 2011, Ref: 60155775/FRA/001 (including the mitigation measures detailed within it).
- 11 No development shall commence until a detailed scheme including drainage plans for the disposal of surface water and foul sewage have first been submitted to and approved by the Local Planning Authority and these works shall be implemented in accordance with the approved scheme. The details shall include:-
  - a) A detailed Ground Investigation to ensure adequate geological, hydrological and ground conditions on the site.



- b) Surface water discharge from the site should be limited to the equivalent Greenfield rate of run-off (11.4 l/s).
  - c) The layout of the proposed development and the design of the new on-site surface water drainage system should allow for the excess run-off from an exceptionally intense local rainstorm to be confined for the duration of the storm within the site. As a surface water pumping station is proposed, the potential failure of the pump should be considered when modelling the extreme storm events.
  - d) The detailed design of the on-site surface water drainage system should take into account the possible effects of climate change on storm run-off over the next hundred years.
  - e) The detailed design of the proposed SuDS features adoption of the features.
  - f) Future maintenance of the proposed surface water pumping station and rising main should be considered, to include the potential adoption of the apparatus by Severn Trent Water.
  - g) Details of how the scheme shall be maintained and managed after completion.
- 12 No development shall commence until such a time as a scheme to install trapped gullies has first been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme.
- 13 No development shall commence until a detailed construction environmental management plan has first been submitted to and approved by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme. The details shall include:-
- a) Detail how, during the site preparation and construction phase of the development, the impact on local residents and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination
  - b) A plan showing how such controls will be monitored
  - c) Procedure for the investigation of complaints.
- 14 No development shall commence on plots 1-10 inclusively and plot 84 until such a time as details of window specifications with sound reduction and passive acoustic ventilation in accordance with the recommendations in the Noise Assessment have first been submitted to and approved by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme.
- 15 No development shall take place until a scheme for the lighting of all roads, parking areas and open spaces adjacent to the northern boundary of the site (including a timetable for its installation) has first been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved scheme.
- 16 Prior to the commencement of development, a Code for Sustainable Homes Design Stage Assessment demonstrating that the apartments hereby approved can be constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority. In addition, prior to the first occupation of the apartments hereby approved, a final certificate demonstrating that the dwelling has been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority.
- 17 The windows, as identified as obscure glaze on drawings no's A-02 Rev C; B-06; D-01 Rev C; D-02 Rev C; D-03 Rev D; D-04 Rev A; D-05 Rev A; D-06 Rev A; E-01 Rev

B; E-02 Rev C; E-03 Rev A; F-02 Rev D; F-03 Rev A; F1-01 Rev D; F1-02 Rev E; G-02 Rev A; H-02 Rev C; H-03 Rev B; H-04 Rev A; X-01 Rev C; X-02 Rev C; Y-01 Rev B; Y-02 Rev C shall be fitted with obscure glass and be non opening and retained this way thereafter.

- 18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1; Classes A-G inclusively shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority on plots 11-15; 24-33; 41-49 and 53

**Reasons:-**

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 To enable the Local Planning Authority to retain control over the external appearance, in the absence of submitted details to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that the development has a satisfactory visual appearance to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 6 To protect the existing hedgerow during development in order to secure it's retention as a wildlife habitat and to protect the character, appearance and biodiversity importance of the adjacent canal corridor and to preserve the character and appearance of the Ashby Canal Conservation Area to accord with Policies BE1, BE7 and REC6 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS5 and PPS9.
- 7 In the interests of visual amenity and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and biodiversity importance of the waterway corridor and to preserve the character and appearance of the Ashby Canal Conservation Area, to accord with Policies BE1, BE7 and REC6 of the adopted Hinckley & Bosworth Local Plan.
- 8&9 In the interests of visual amenity, to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 10 To prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site; to reduce the impact of flooding on the proposed development and future occupants and to reduce the risk of flooding to the proposed development and future occupants to accord with Policy NE14 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS25.
- 11 To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, protect the water quality, minimise the risk of pollution and ensure future maintenance of the surface water drainage system to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan and guidance contained within PPS25.

- 12 To protect the water environment to accord with Policy NE14 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS25.
- 13 To safeguard the amenities of surrounding residential dwellings and future occupiers of the proposed dwellings to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 14 The premises are close to industrial units and a noise attenuation measures are required to safeguard the amenities of future occupiers of the plots identified, to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 15 To minimise the problems of glare, show consideration for bats and to avoid unnecessary light pollution which could adversely affect the character and appearance of the Ashby Canal Conservation Area to accord with Policies BE7 and REC6 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS5 and PPS9.
- 16 In the interests of sustainable development to accord with Policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.
- 17 To safeguard amenities of neighbouring properties to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 18 To ensure that the approved dwelling does not have an adverse impact upon the amenities of occupiers of nearby dwellings or on the visual impact upon the area, to accord with Policies BE1 and BE7 of the 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](http://www.planningportal.gov.uk).
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.
- 6 The applicant/developer is advised to contact the Works Engineers Team at the Fazeley Office on 01827 252000, in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways' "Code of Practice for Works affecting British Waterways". The proposed development includes provision of new accesses to British Waterways land (towpath adjacent to the

northern boundary of the Application Site). Such access will require the prior consent of British Waterways including a commercial agreement. Please contact the Estates Team at the Fazeley Office on 01827 252000 for further advice.

- 7 Vehicular and pedestrian crossing of the proposed swales should include culverts designed in accordance with CIRIA document C689, in order to prevent blockage of the swales/surface water drainage system.
- 8 During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.

Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.

**Contact Officer:-** Ebony Mattley Ext 5691

**Item:** 05

**Reference:** 11/00389/CLU

**Applicant:** Mr & Mrs S Ansar

**Location:** The Fishing Lodge Wallace Drive Groby

**Proposal:** **LAWFUL DEVELOPMENT CERTIFICATE FOR EXISTING USE OF THE FISHING LODGE AS A DWELLING**

**Target Date:** 22 July 2011

#### **Introduction:-**

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

#### Application Proposal

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

The application is for a lawful development certificate for the existing use of the 'Fishing Lodge' as a dwelling. Supporting documentation has been submitted by the applicant to support his case.

Annexe 8 of Circular 10/97 gives guidance to Local Planning Authorities on the consideration of applications for such certificates to enable owners to ascertain whether specific uses are or would be lawful. The Committee is not therefore required to make a planning judgement on the merits of the proposed use.

### The Site and Surrounding Area

The site comprises an area of land to the north of Markfield Road, Groby. The site is accessed via Wallace Drive and is situated at the bottom of a 115 meter driveway. The site is surrounded by fields, some densely wooded and is not visible from any public vantage point. The buildings on site comprise 'The Bungalow' which has recently undergone extension and 'the Fishing Lodge'. The buildings are situated either side of the entrance to the site, opposite one another.

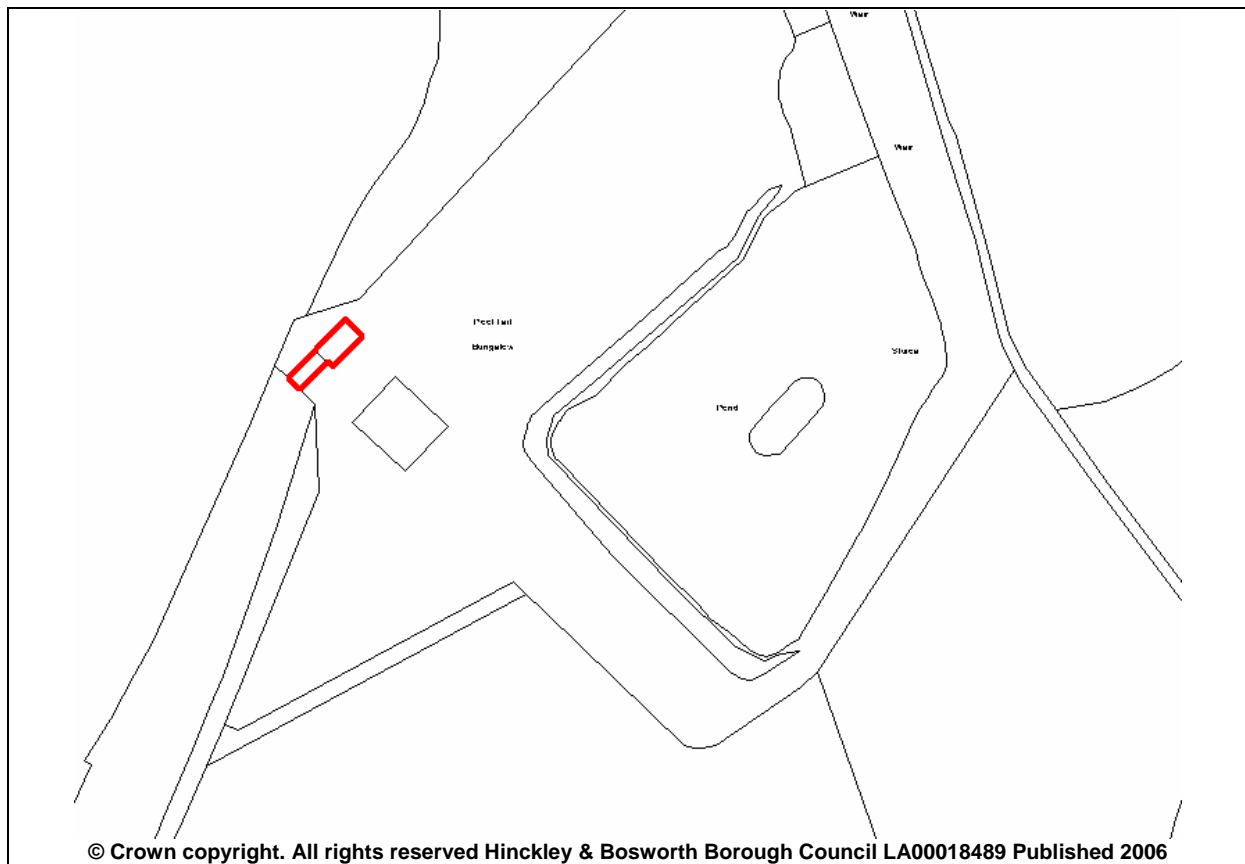
### Technical Document submitted with application

Various supporting documents have been submitted with the application. These include the following:-

- a) A declaration from the owners of the site confirming the sites use. This states that the 'Fishing Lodge' has been occupied as the principal dwelling since March 2001 and the 'The Bungalow' has been stood empty
- b) Historical evidence outlining the buildings on site
- c) Property details from when the site was for sale
- d) Photographs of the 'Fishing Lodge'
- e) Historic Council Tax bills for the site
- f) Valuation details from the Valuations Office for 'The Annex'
- g) BT phone bills for the 'Fishing Lodge'
- h) Poll cards addressed to the 'Fishing Lodge'
- i) Receipts from purchases brought by the applicants addressed to the 'Fishing Lodge'
- j) Calor gas bills addressed to the 'Fishing Lodge'
- k) Declarations from the family solicitor and a structural surveyor confirming the use of the 'Fishing Lodge' as a dwelling
- l) A letter from Hinckley and Bosworth Council Tax department deleting the 'Fishing Lodge' from the valuations list as in their opinion it no longer comprised a dwelling.

### **History:-**

06/00327/CLU	Certificate of Lawful Existing Use of outbuilding known as the Fishing Lodge as a single dwelling house	Refused	18.05.06
05/00253/UNUSE	Unauthorised change of use of the Fishing Lodge to residential use not ancillary to the existing dwellinghouse. Enforcement Notice Quashed	Appeal allowed	17.07.07
04/01072/FUL	Extensions and alterations to dwelling	Approved	22.10.04
01/00414/FUL	Extensions to dwelling	Withdrawn	16.10.01
87/00991/4	Agricultural fish farm with mobile home	Refused	22.12.87



### **Consultations:-**

The purpose of consultation in the case of Certificates of Existing Lawful Use is to offer neighbours of the site, and the local Parish Council an opportunity to provide any further evidence which may aid decision making. It does not present an opportunity to comment upon the planning merits of the case.

A letter has been received from Groby Parish Council. This suggests that applicants should not be occupying the 'Fishing Lodge' as this was refused residential planning permission. It questions why this type of application is being applied for, given the recent appeal decision relating to the site. Finally, a formal request is made that this application be determined by the Planning Committee.

### **Policy:-**

National Policy Guidance

Section 191 of the Town and Country Planning Act (1990) Certificate of lawfulness of existing use or development.

This is applied in the following cases; If any person wishes to ascertain whether:-

- a) any existing use of buildings or other land is lawful
- b) any operations which have been carried out in, on, over or under land are lawful or
- c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

For the purposes of this Act uses and operations are lawful at any time if:-

- a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason), and
- b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if:-

- a) the time for taking enforcement action in respect of the failure has then expired, and
- b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

A certificate under this section shall:-

- a) specify the land to which it relates
- b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class)
- c) give the reasons for determining the use, operations or other matter to be lawful, and
- d) specify the date of the application for the certificate.

The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.

### **Appraisal:-**

When appraising this type of application the following points are considered:-

- a) There must be continuous use
- b) The onus of proof is on the applicants
- c) The test is the balance of probability
- d) The applicant's evidence must be sufficiently precise and unambiguous.

### **Background**

On 9 November 2006 an enforcement notice was served on the application site. The breach of planning control alleged within the notice was the unauthorised change of use of the Fishing Lodge to a residential use not ancillary to the existing dwelling house. This notice was subsequently appealed under appeal reference APP/K2420/C/06/2033424.

On the 18 May 2006 an application for a Certificate of Lawful Existing use was refused. This was for the lawful existing use of an outbuilding know as the 'Fishing Lodge' as a single dwelling (06/00327/CLU). This refusal was subsequently appealed under appeal reference APP/K2420/X/06/2030910.

The inspector considered these two appeals jointly.

In respect of the appeal relating to the enforcement notice, the inspector considered that when the Fishing Lodge began to be used as a dwelling in March 2001 there was no material change of use. The focus of the lawful single dwellinghouse simply shifted from one building (the bungalow) to another (the fishing lodge) within the same planning unit. He said that a separate unit of occupation is created when part of the original unit is occupied as a separate unit. In this case the bungalow was never occupied separately from the Fishing Lodge. The inspector deemed that a material change of use would only occur when the bungalow and the fishing lodge were both occupied at the same time as separate dwellings. The inspector concluded that the change of use of the Fishing Lodge to residential use not ancillary to the use as a dwelling of the bungalow did not involve a material change of use and thus did not constitute a breach of planning control. Accordingly the appeal was allowed and the enforcement notice was quashed.

In respect of the appeal relating to the Certificate of Lawful Use (which is key to the recommendation in this report) the inspector concluded that the appeal site comprised a single planning unit the lawful use of which was as a single dwellinghouse. What was sought however was something quite different, a certificate of lawfulness in respect of a particular building on the appeal site (the Fishing Lodge). This would only be appropriate if the appeal site comprised two planning units (one for the bungalow and one for the lodge) each with a lawful use as a single dwelling. But this was not the case. He found that the refusal of a certificate of lawful single dwellinghouse use in respect of the Fishing Lodge was well-founded, and he dismissed the appeal.

The current application offers nothing new to the information provided, and arguments advanced, by the applicants in relation to the appeal. The applicants, in their respective statutory declarations dated 6 May 2011, state that they have owned the lodge since 2000, there are two buildings on the site, they moved into the Lodge in March 2001 and have occupied it as their principal home without interruption since then and the Bungalow has stood empty and unused since that date.

The application site remains as one planning unit, on which can be a single lawful dwelling house. The applicants have clearly stated that there are two buildings on site, but that they have only occupied one – ‘The Fishing Lodge’ as their principal home since 2001 and that ‘The Bungalow’ has always stood empty. No activities have taken place which have resulted in the creation of two planning units. No material change of use has taken place of the ‘Fishing Lodge’ the residential use has simply shifted from ‘The Bungalow to the ‘Fishing Lodge’. Accordingly, the application for a Certificate of Existing Lawful Use will be recommended for refusal.

### **Summary of Reasons for Recommendation and Relevant Development Plan Policies :**

#### **Reasons:-**

- 1 The application site comprises a single planning unit the lawful use of which is as a single dwellinghouse. What is sought however is something quite different, a certificate of lawfulness in respect of a particular building on the application site (the Fishing Lodge). This would only be appropriate if the application site comprised two planning units (one for the bungalow and one for the lodge)

**Contact Officer:-** Eleanor Shaw Ext 5680



**Item: 06**  
**Reference: 11/00423/FUL**  
**Applicant: Governors Of St Martins High School**  
**Location: St Martins Catholic School Hinckley Road Stoke Golding**  
**Proposal: ERECTION OF MOBILE CLASSROOM**  
**Target Date: 26 July 2011**

#### **Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it new development for an institutional use.

#### Application Proposal

This application seeks full planning permission for the erection of a unit containing a single classroom space. The mobile will be sited adjacent to the rear entrance of the school. The unit has a height of 3.4 metres to the ridge and a footprint measuring 7 metres x 9 metres.

#### The Site and Surrounding Area

The site is situated to the eastern side of the village of Stoke Golding, within the open countryside. The site is well screened by mature landscaping and is relatively flat. The main entrance is off Stoke Road. The school is constructed on the northern edge of the site. There are hard surfaced play areas to the south and west of the school and a large car park and playing fields further south. There is an existing mobile classroom to the north of the school, adjacent to the driveway of the old convent. To the north of the site there are residential properties and a farm, to the east is the former convent site, which has planning permission for residential development and to the west there is residential properties and farm land. The remainder of the site is surrounded by farmland.

#### Technical Document submitted with application

A Design and Access Statement was submitted with the application. This describes the proposal and concludes that the need for the additional accommodation within the school grounds has been determined on educational grounds and to a large degree the existing layout of the buildings dictates the location of the temporary unit. This fits with the operational requirements and brings the school buildings up to an appropriate standard.

Finally it states that the development can be carried out within the context of the existing school buildings, without detriment to neighbouring uses.

#### **History:-**

10/00820/FUL	Extension and Alterations to School	Approved	21.12.10
08/00772/FUL	Replacement windows and Formation Of fire escape	Approved	16.09.08

03/0122/FUL

Extension to saint Martins Roman  
Catholic School

Approved

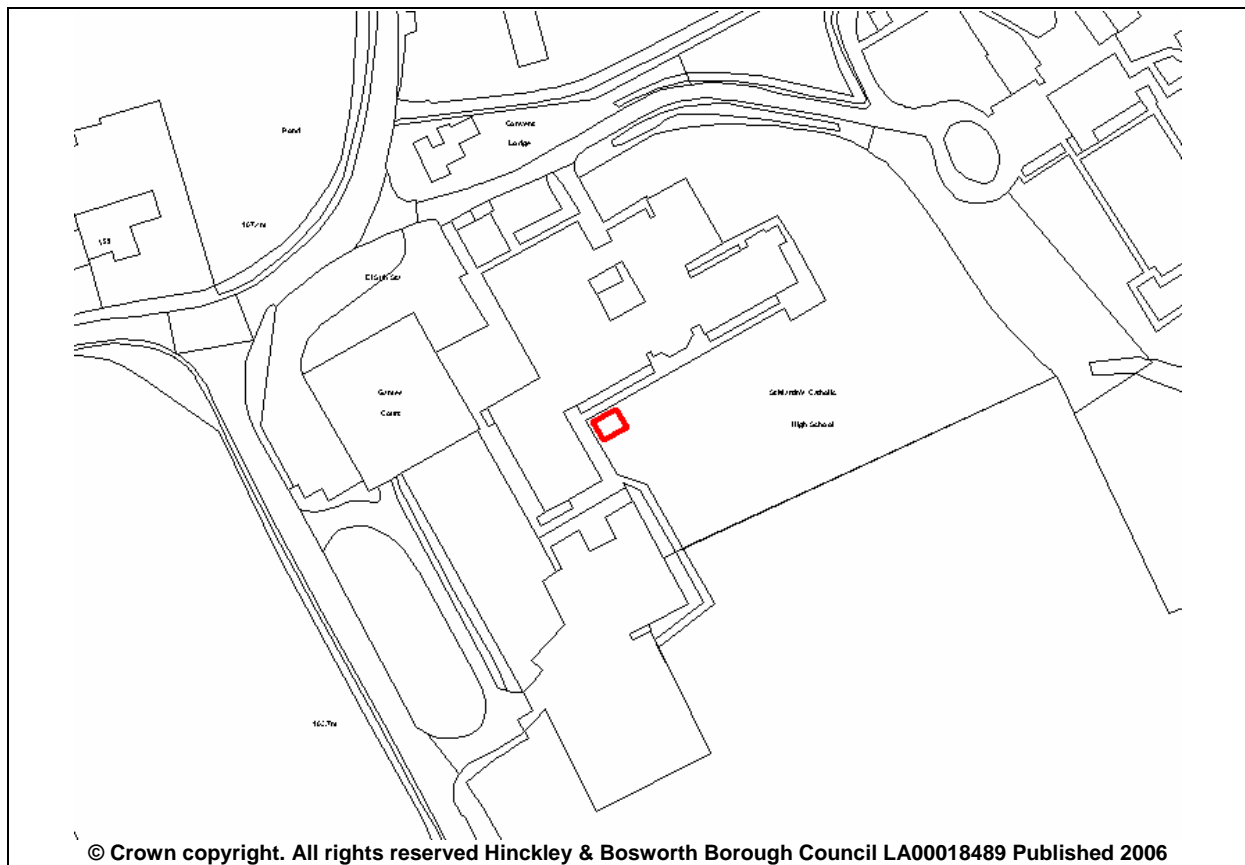
08.12.03

99/01024/TEMP

Retention of Mobile Classroom

Approved

07.01.00



### Consultations:-

No objection has been received from:-

Stoke Golding Parish Council  
Head of Community Services (Pollution).

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

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

Stoke Golding Heritage Group  
Ward Members  
Neighbours.

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

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.

### Regional Policy Guidance

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.

### Local Development Framework Core Strategy 2009

None applicable.

### 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 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 NE5: States that the countryside will be protected for its own sake. Planning permission will be granted provided that the development proposed is for the extension of existing buildings and only 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.

#### Supplementary Planning Guidance/Documents

None relevant.

#### **Appraisal:-**

The main considerations with regards to this application are the principle of the development, impacts on the visual amenity and character of the countryside, design, residential amenity and other issues.

#### Principle of Development

Although the site is situated within the open countryside, where there is a presumption against new development, the application seeks further development of an existing facility, as such it accords with Policy NE5 in principle providing the policy criteria are met.

#### Visual Amenity and Character of the Countryside

By virtue of its siting, the proposed mobile classroom will not be visible from any public vantage point. The mobile unit will be situated on an open area of land adjacent to the rear and side elevations of the school. The height of the existing school buildings are in excess of 2 meters higher than the proposed mobile unit, thus screening it from the north and west. The mix of gray and brown materials will further assimilate the development into its surroundings. There may be some views of the development from the countryside to the east and south east of the site, however as the development will be seen against the backdrop of the existing buildings, there will be no material impacts upon the visual amenity of the area. Accordingly there are considered to be no adverse impacts on the visual amenity of the area or character of the countryside.

#### Residential Amenity

The nearest residential properties are Convent Lodge, which is 70m from the proposal and 135 Hinckley Road which is 112m from the proposal. Accordingly resultant of the separation distances, the screening offered by existing buildings and the fact that the site is an existing school, additional noise generated from the proposal would not be of a material level; and would not therefore have a detrimental impact on the residential amenity of surrounding properties.

#### Design

The design and construction proposed is directly related to the development type. Although the development of a more permanent, well designed building would be preferable in terms of appearance, the long term need and justification for a building of this type cannot be

confirmed at this time. The design of the building would not be compliant with Policy BE1 of the Local Plan, however in this case due to the overriding educational need for the building, a condition restricting the siting of the building to a temporary period of three years will be imposed.

### Other Issues

#### Need

Within the Design and Access Statement the applicant has stated that teaching space within the existing school is inadequate, insofar as rooms not designed for teaching purposes, such as the library are being used for such. It is further stated that the siting of the existing mobile classroom is inappropriate and results in safety issues for the students. This said the long term need for the proposal cannot be justified due to the yearly changes in student numbers. Accordingly at this stage it would not be possible to request a building of more permanent construction.

#### Impact upon Highway Network

The mobile unit will provide additional teaching space within the existing school, however, this will not result in additional pupils but will re-distribute teaching space as discussed above. As such it is considered that the proposal will not result in an increase of traffic that would exceed the highway network capacity.

#### Conclusion

Based on the need, the proposed siting and specified circumstances identified, the erection of this mobile classroom is considered justified and its design and construction acceptable. Accordingly there are considered to be no material impacts on either visual or residential amenity or on the character of the countryside. The development is therefore acceptable and compliant with policies BE1, NE5 and T5 of the adopted Hinckley and Bosworth Local Plan.

### **RECOMMENDATION:- Permit subject to the following conditions:-**

#### **Summary of Reasons for Recommendation and Relevant Development Plan Policies :**

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. By virtue of the justification provided and the siting and design proposed the proposal is considered to have no material impacts in terms of visual or residential amenity or on the character of the countryside and is therefore considered acceptable.

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Ref: 'Promap' scale 1:1250 and Drg No: 1296/04 received by the Local Planning Authority on the 26 May 2011.

- 3 The building hereby permitted shall be removed and the land restored to its former condition on or before 19 July 2014 in accordance with a scheme of work previously submitted to and approved 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 The design and materials of the building fail to respect the character of the area and therefore do not comply with the requirement of policy BE1 of the adopted Hinckley and Bosworth Local Plan and therefore make it unsuitable for permanent permission. The development has only been deemed acceptable due to the current educational need of the school.

**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](http://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:** 07  
**Reference:** 11/00410/FUL  
**Applicant:** Mr Jonathan Sanders  
**Location:** Brascote Fields Farm Brascote Lane Newbold Verdon  
**Proposal:** RETENTION OF STATIC CARAVAN FOR AGRICULTURAL PURPOSES  
**Target Date:** 8 August 2011

#### **Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the application is for an agricultural workers' caravan where an agricultural appraisal is required.

#### Application Proposal

This application seeks full planning permission for the retention of a static caravan for agricultural purposes. The caravan is positioned centrally on the site towards the southern boundary. Hard surfacing and slabs have been laid down, on which the caravan is sited. The caravan has a footprint of approximately 33 square meters and a maximum height of 3.7 metres to the ridge. A metal sheet plinth has been bolted around the base of the caravan and brick steps lead to its entrance. A butane canister provides gas to service the van and an electric generator has been sited. Water is provided from an on-site well. Internally the accommodation is subdivided into a living room, a bathroom, a kitchen and office and a double bedroom with en suite.

The applicant proposes to expand his farming enterprise over the coming years, through the breeding of goats, pigs and chickens, and the selling of their produce and off-spring.

This application follows an application for a Certificate of Lawful Existing Use for a static caravan for agricultural purposes (11/00188/CLU), which was refused as it was considered that it had not been demonstrated that the use of the caravan for agricultural purposes had operated continuously for a period of 10 years.

#### The Site and Surrounding Area

The site is situated at the end of an access track leading from Brascote Lane. The site has an area of 2 acres and is part of a larger agricultural field (not owned by the applicant). The site is surrounded by agricultural land and is bound by native hedgerow. A number of smaller paddocks have been created on the holding which are served by a newly laid gravel track. On entrance to the site is a hard surfaced parking area, adjacent to which is a large agricultural building, granted planning permission in 2010 (10/00330/FUL).

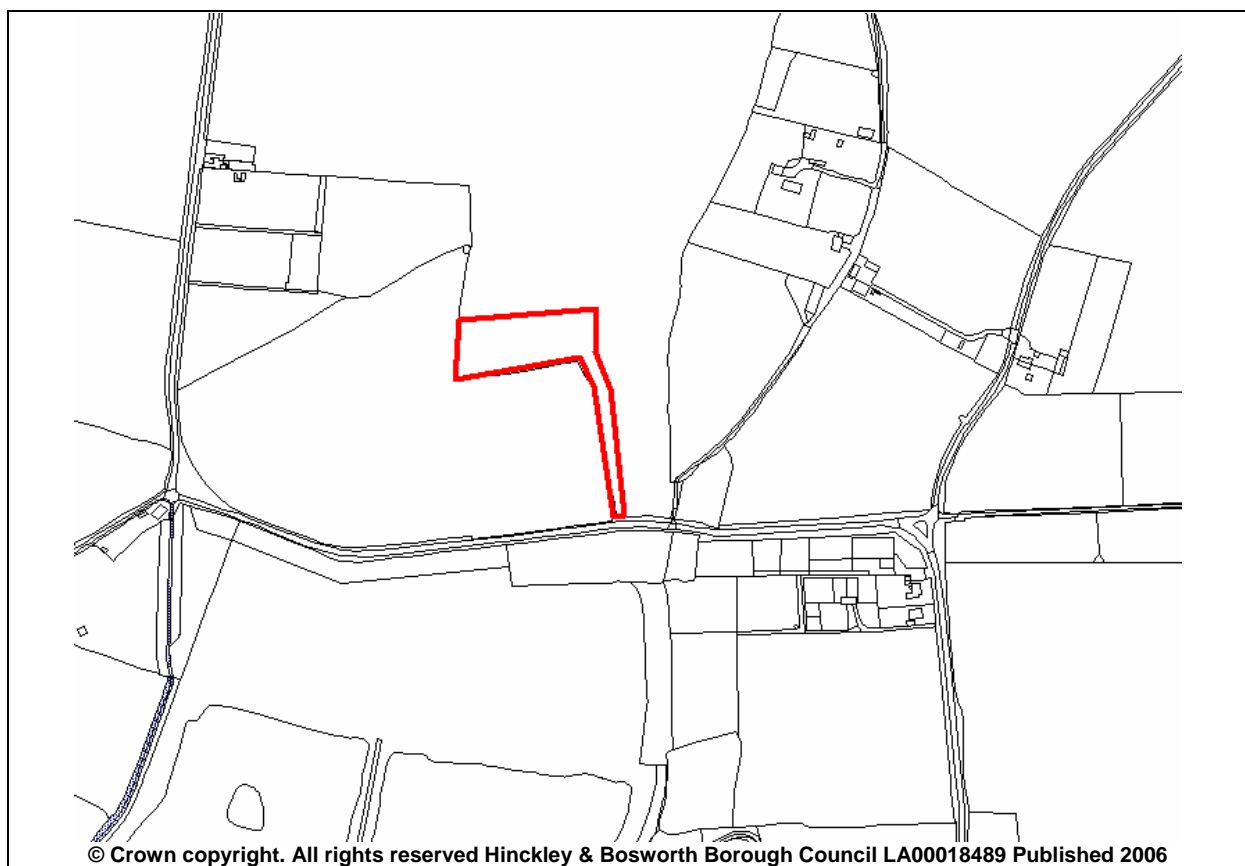
#### Technical Document submitted with application

A Design and Access Statement has been submitted with the application, this describes the site and how the operations adhere to local and national planning policy. Justification is also provided for the need of the static caravan and a business plan is included. The statement concludes that the structure is required to provide vital staff facilities to enable the operations

in line with DEFRA and Health and Safety in the workplace guidelines. It states that the use complies with PPS7 as it facilitates agriculture and will ensure suitable capacity to meet the short/medium term needs of this growing business.

**History:-**

11/00188/CLU	Certificate of lawful existing use for a static Caravan for agricultural purposes	Refused	04.05.11
10/00183/GDO	Erection of an agricultural store	Refused	22.04.10
10/00330/FUL	Proposed agricultural building for livestock	Approved	10.08.10



**Consultations:-**

No objection has been received from:-

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

The Council's Agricultural Appraisal Consultant has stated that the information submitted does not meet the functional or financial tests as set out in PPS7 Annex A and has therefore recommended the application for refusal.



One neighbour letter has been received in support of the application.

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

Environment Agency  
Ward Members  
Newbold Verdon Parish Council.

## **Policy:-**

### National Policy Guidance

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

Planning Policy Statement 3 (PPS3): Housing sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to ensure that housing developments are in suitable locations.

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

### Regional Policy Guidance

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

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.

#### Local Development Framework Core Strategy 2009

None Relevant.

#### Hinckley and Bosworth Local Plan 2001

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

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

Policy T5 refers to the application of appropriate standards for highway design and parking targets for new development.

Policy NE5 states that the countryside will be protected for its own sake. However, planning permission will be granted for built and other forms of development provided that it is important to the local economy and cannot be provided within or adjacent to an existing settlement and only where it does not have an adverse effect on the appearance or character of the landscape, is in keeping with the scale and character of the existing buildings and general surroundings, will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping. Policy NE12 states that proposals for development should make provision for further landscaping where appropriate. Policy NE14 requires satisfactory arrangements to be made for the disposal of foul sewage and surface water.

#### Supplementary Planning Guidance/Documents

The Council's Supplementary Planning Guidance on New Residential Development provides further advice in respect of layout, design etc.

## **Appraisal:-**

The main considerations with regards to this application are the principle of residential development in the countryside, the layout and design of the dwelling and its impact on the character and appearance of the surrounding landscape and highway safety.

### Principle of Development

One of the few circumstances in which isolated residential development may be justified in the countryside is when accommodation is essential to enable a full-time agricultural worker to live at their place of work and special justification can be provided in both functional and financial terms. Annex A of PPS7 states that Authorities should not normally give temporary permissions in locations where they would not permit a permanent dwelling.

The holding comprises of an area of 2 acres of land. In 2010 works commenced in order to enable livestock to be kept on the site, including the erection of a barn and small storage building. The applicant has stated that he has invested £250,000 in equipment and materials for the enterprise. On site there are 5 goats, 4 pigs, 'numerous' chickens and 1 cockerel. Information has also been provided as to how the applicant intends to develop his operation over the next three years. The applicant has stated that the caravan is required to support the agricultural operation and provide facilities for workers to shower and wash down. The applicant also considers that a bedroom is necessary to allow for 24 hour on-site care of the animals during the birthing season. However this said, the applicant has stated that the caravan will not be used as a permanent dwelling.

The static caravan applied for has a floor area of approximately 40 square meters and provides all the accommodation and facilities required for it to function as a dwelling. Accordingly, regardless of the statement by the applicant that the caravan will not be used as a permanent dwelling, by virtue of its size and the ancillary works which have taken place, the proposal submitted is not commensurate with the size/type of caravan which could be considered as ancillary to the agricultural operations on site. This proposal is therefore deemed a new dwelling in the countryside for agricultural operations, and will be appraised against the functional and financial tests of Annex A PPS7.

The Borough Council's Agricultural Appraisal Consultant has considered the information provided, and has made the following comments:-

The circumstances of the holding and the associated livestock activities described in the Design and Access Statement submitted with the application are such that the requirements for permanent residential accommodation at Brascote Fields Farm cannot be met. The scale and nature of the extant agricultural enterprise do not support a functional need for the on-site presence of a full-time worker, the enterprise has not been extant for at least three years, and there is no prospect of current profitability or financial soundness.

Were the caravan to provide temporary accommodation pending the further development of the agricultural enterprise, then again the information available does not meet the policy requirements. There is limited information on the scale and nature of the intended enterprise on which to judge the functional requirements, and no evidence relating to the sound financial planning of the enterprise.

Accordingly the proposal does not meet the policy tests for agricultural dwellings as set out in Annex A to PPS7, is contrary to central government guidance and adopted Local Plan policies that seek to protect the character and appearance of the countryside from residential development that does not have any special justification.

### Design and Impact on the Countryside

The caravan is situated to the east of the existing barn, thus clustering built development on site. The buildings are set back from the nearest public vantage point, Brascote Lane, by 160 meters, and the site, surrounded by open countryside. The boundaries of the site, and those of the field separating the site from Brascote Lane comprise dense hedgerow. Accordingly, the caravan is largely screened by the established vegetation, with only slight views of the upper most part of the caravan available. Due to the contour of the land, there are no views of the proposal from Brascote lane to the west. Views of the caravan will be available from Arnold's Crescent, which is 500m to the north of the site, however as the caravan will be seen as part of a cluster of buildings and will be obscured by the intervening vegetation, it is not considered to have a detrimental impact on the openness or character of the countryside and is thus in accordance with policies BE1 and NE5 of the Local Plan.

As views of the static caravan within the landscape will be minimal, the design of the proposal is not considered to warrant refusal of the application.

### Highways

The proposed dwelling would not have an adverse impact on highway safety or generate traffic to adversely affect the rural character of the area and the Highway Authority has no objection to the proposal. There is adequate private amenity space and parking provision within the site.

### Conclusion

Both Central Government guidance and adopted Local Plan policies seek to protect the countryside for its own sake. An unsatisfactory agricultural appraisal has been received and the proposal has failed to pass the functional and financial tests of Annex A of PPS7. There is no special justification for the proposed dwelling in this countryside location and the application is therefore recommended for refusal.

**RECOMMENDATION:- REFUSE, for the following reasons:-**

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

**Reasons:-**

- 1 In the opinion of the Local Planning Authority, from the information provided, there is no agricultural support for the proposed dwelling as the enterprise fails the functional and financial tests set out in Paragraphs 3, 4, 8 and 9 of Annex A to Planning Policy Statement 7. The proposal therefore represents an unwarranted and unacceptable intrusion of residential development in an unsustainable location in the countryside. The proposal is therefore contrary to policies BE1, RES12 and NE5 of the adopted Hinckley & Bosworth Local Plan and to Central Government Guidance in Planning Policy Statement 1 'Delivering Sustainable Development', Planning Policy Statement 3: 'Housing' and Planning Policy Statement 7 'Sustainable Development in Rural Areas'.

**Contact Officer:-** Eleanor Shaw Ext 5680

**Item: 08**  
**Reference: 11/00216/LBC**  
**Applicant: Hinckley & Bosworth Borough Council**  
**Location: Atkins Building Lower Bond Street Hinckley**  
**Proposal: ALTERATIONS TO LISTED BUILDING**  
**Target Date: 11 August 2011**

**Introduction:-**

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the application has been submitted by the Council for its own development.

Application Proposal

Listed Building Consent is sought for internal alterations to a current open plan space to create 8 office studio spaces with an internal corridor.

There are already office and studio spaces within the building, the proposed office spaces range in size from 13.50 square metres to 38.25 square metres. The office spaces will be created by 3.5 metre high partitions with a plasterboard ceiling finished in white vinyl matt emulsion with both timber and glass panelled doors in a grey finish, all to match the materials already used within the building.

For the avoidance of doubt there are no external works proposed to the exterior of the building.

Following concerns raised by officers, further details of the treatment of the walls at high level in the corridor has been requested. The applicant has confirmed that the walls are finished to beam height only, not full roof height and the partitioning is finished with a 6 inch MDF pelmet to decorate the exterior (painted accordingly).

The Site and Surrounding Area

This application seeks to alter space on the second floor of the wing that fronts Baines Lane.

Atkins Brothers (Hosiery) Factory also known as the Goddard Building is a Grade II Listed Building. The site previously consisted of a range of buildings used in the hosiery industry. The Goddard building is considered an outstandingly large factory for Hinckley and of pivotal importance in Hinckley's hosiery business and townscape. Their obvious industrial appearance is a reminder of the town's industrial past, this appearance has been preserved and enhanced through the recent works to utilise the building as a creative industry centre. The site is bounded by three roads: Lower Bond Street, Baines Lane and Druid Street, a public footpath links Lower Bond Street to Druid Street. Its principal frontage is to Lower Bond Street. A mix of uses surround the site, of particular note adjacent the site to the south east is the Unitarian Great Meeting Chapel, Grade II\* listed; the Hollybush Public House to the north east, Grade II; the Museum, Grade II; and the Leicestershire County Council Social Services building to the north. The frameknitters cottages have been recognised as a nationally important building by English Heritage and have been listed Grade II.

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

Technical Documents Submitted with application

The application is accompanied by a Design and Access Statement and Heritage Statement.

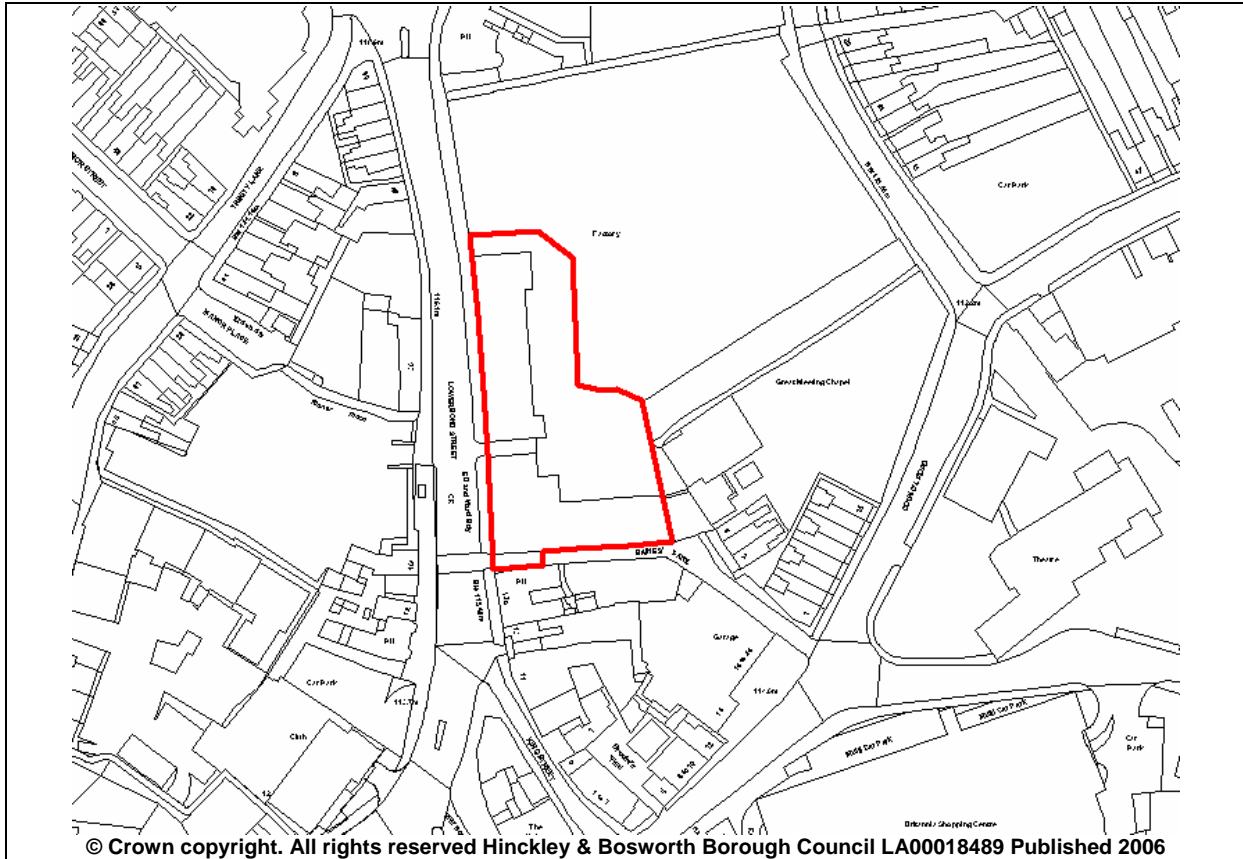
The Design and Access Statement lists the specific materials to be used in the creation of the office spaces and states that they are required to help the financial viability of the building.

The Heritage Statement states that the impact will be the loss of the open plan space but that the offices will be constructed in an aesthetic way and does not intend to impact upon the exposed brickwork.

**History:-**

Listed Building Consent (ref: 07/01218/LBC) was granted by the Government Office for the East Midlands on 25 January 2008 for the demolition of the vacant post 1920's buildings. Those buildings have since been demolished. Subsequent permission has been granted (ref: 09/00141/DEEM) for the re-development of a new college building and the change of use and conversion (ref: 09/00142/LBC) of the existing Grade II Listed Goddard Building to facilitate use as a creative industries centre.

10/00450/LBC	Amendments to Listed Building Consent 09/00142/LBC	Approved	15.11.10
10/00271/DEEM	Variation of condition No 2 of Planning Permission 09/00141/DEEM to allow minor material alterations	Approved	11.06.10
10/00264/DEEM	Variation of condition No.2 of Listed Building Consent 09/00142/LBC to allow external alterations	Withdrawn	26.05.10
09/00142/LBC	Conversion and adaptation of the existing Grade II Listed Goddard building to facilitate use as a creative industries centre	Approved	12.05.09
09/00141/DEEM	Re-development of the former Atkins factory site for a mixed use development comprising of a new college building and the change of use and conversion of the existing Goddard building for use as a creative industries centre, including associated car parking and public realm improvement	Approved	04.09.09



### Consultations:-

No comments/objection has been received from:-

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

Site notice and Press notice were displayed and neighbours notified.

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

English Heritage  
Historic Buildings Panel  
Ancient Monuments Society  
The Society for the Protection of Ancient Buildings  
Georgian Group  
The Victorian Society  
Council for British Archaeology.

The consultation period remains open at the time of writing and closes on 21 July 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 5 (PPS5) - Planning for the Historic Environment (2010) 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.

Section 72 (1) of the Planning (Listed Buildings and Conservation Area) Act 1990 provides that where an area is designated as a conservation area "...special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area" in the exercise of any of the provisions of the Planning Acts.

### Regional Policy Guidance

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

None relevant.

### Hinckley and Bosworth Local Plan 2001

Policy BE4: Alterations of 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.

## **Appraisal:-**

The main consideration in the determination of the application relates to whether the works proposed accord with Policy BE4 of the adopted Hinckley and Bosworth Local Plan and the overarching guidance contained within PPS5. As such the issue for consideration in this application is whether the development detracts from the architectural or historic character or appearance of the building.



Timber partitioning by virtue of its design will not result in any significant harm to the original fabric of the building. A suspended ceiling is proposed for each of the office spaces in order to aid in acoustic performance, which will allow for lighting systems without harming the historic fabric of the building. The ceiling above the main passageway serving the offices is to be left exposed and up lit so the detail of the roof can still be witnessed and would therefore not harm the historic fabric of the building. For the avoidance of doubt, the brickwork, which has been previously exposed, will be left this way.

The building is already subject to works and alterations which have allowed modern finishes and the materials and finishes proposed are set to match those used in the existing Atkins building. It is not considered that the addition of these would harm any special of architectural fabric.

For the avoidance of doubt there will be no impact on the external appearance of the building.

In conclusion, the works represent a scheme of modifications that will facilitate the re-use of the important and historic building with only minimal intervention to the historic fabric. It is considered that the works proposed to the listed building has adequately demonstrated that they would not significantly detract from the architectural or historical character or appearance of the building. Accordingly it is considered the works proposed would be compliant with Saved Local Plan Policy BE4 and the overarching principles of guidance contained within PPS5 and is therefore recommended for approval subject to the imposition of planning conditions.

Section 82 of the Act and Regulation 13 of the Planning (Listed Building and Conservation Areas) Regulations 1990 requires that applications by a Local Planning Authority on its own land for Listed Building consent are to be made to the Secretary of State following the committee resolution.

**RECOMMENDATION: - That powers be delegated to the Deputy Chief Executive (Community Direction) to refer the application to the Secretary of State following the expiry of the consultation period on 21 July 2011 and resolution of matters that may arise, in accordance with Regulation 13 of the Planning (Listed Building and Conservation Areas) Regulations 1990.**

#### **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 development would be in accordance with the development plan and would not be to the detriment of the special architectural or historic interest of this Listed Building.

Hinckley and Bosworth Local Plan (2001):- Policy BE4.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The works hereby permitted shall not be carried out otherwise than in complete accordance with the submitted details: OS Sitemap (1:1250); OS Sitemap (1:500); Proposed Plans Drawing No D3053-B and Partition Details Drawing No DE110, Design and Access Statement and Heritage Statement received by the Local Planning Authority on 16 June 2011.

- 3 Before any works commence, representative samples of the types and colours of materials to be used internally shall first 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 To comply with the requirements of Section 18 of the Planning (Listed Building and Conservation Areas) Act 1990.
- 2 For the avoidance of doubt and in the interests of proper planning and to ensure that the works accord with the requirements of Policy BE4 of the adopted Hinckley and Bosworth Local Plan and guidance contained within PPS25.
- 3 To ensure that the development has a satisfactory appearance and does not detract from the special architectural or historic interest of this Listed Building to accord with Policy BE4 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](http://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:** 11/00499/C  
**Applicant:** Mr Zeeshan Aslam  
**Location:** Land South Of Lindley Wood Fenn Lanes Fenny Drayton  
**Proposal:** RE-USE OF DERELICT BROWNFIELD LAND FOR THE PURPOSE OF WINDROW COMPOSTING INSIDE A BUILDING (COUNTY MATTER)  
**Target Date:** 11 July 2011

### **Introduction:-**

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

#### **Application Proposal**

This application is a County Matter whereby Leicestershire County Council is the determining planning authority. The Borough Council is a consultee and the County Council requests the observations of the Borough Council on the application.

This revised proposal is for a fully licensed windrow composting facility using non-hazardous bio-degradable waste streams to produce high quality compost that is suitable for use as a soil conditioner for agricultural land. This revised scheme follows the refusal of planning permission and subsequent dismissed appeal.

It is proposed that the site shall receive up to a maximum of 10,000 tonnes per annum of garden waste and wood waste for composting. The windrow composting process will take place within the confines of a newly constructed building measuring some 70m x 32m x 10m to the ridge.

The building will have two main entrances to allow the entry/exit of delivery vehicles.

#### **The Site and the Surrounding Area**

The application site is located approximately 1 kilometre east of Fenny Drayton and 5 kilometres north of Nuneaton. The proposed composting site was previously used as an electrical supply facility associated with electrical supply to the Nuneaton RAF base (now MIRA testing grounds) used during the Second World War.

The proposed composting site will utilise an area of the former electrical supply site covering approximately 3.1 hectares. It comprises a piece of land, approximately 150 metres in length and 160m width, with concrete tracks and hard standings and a building currently present on site.

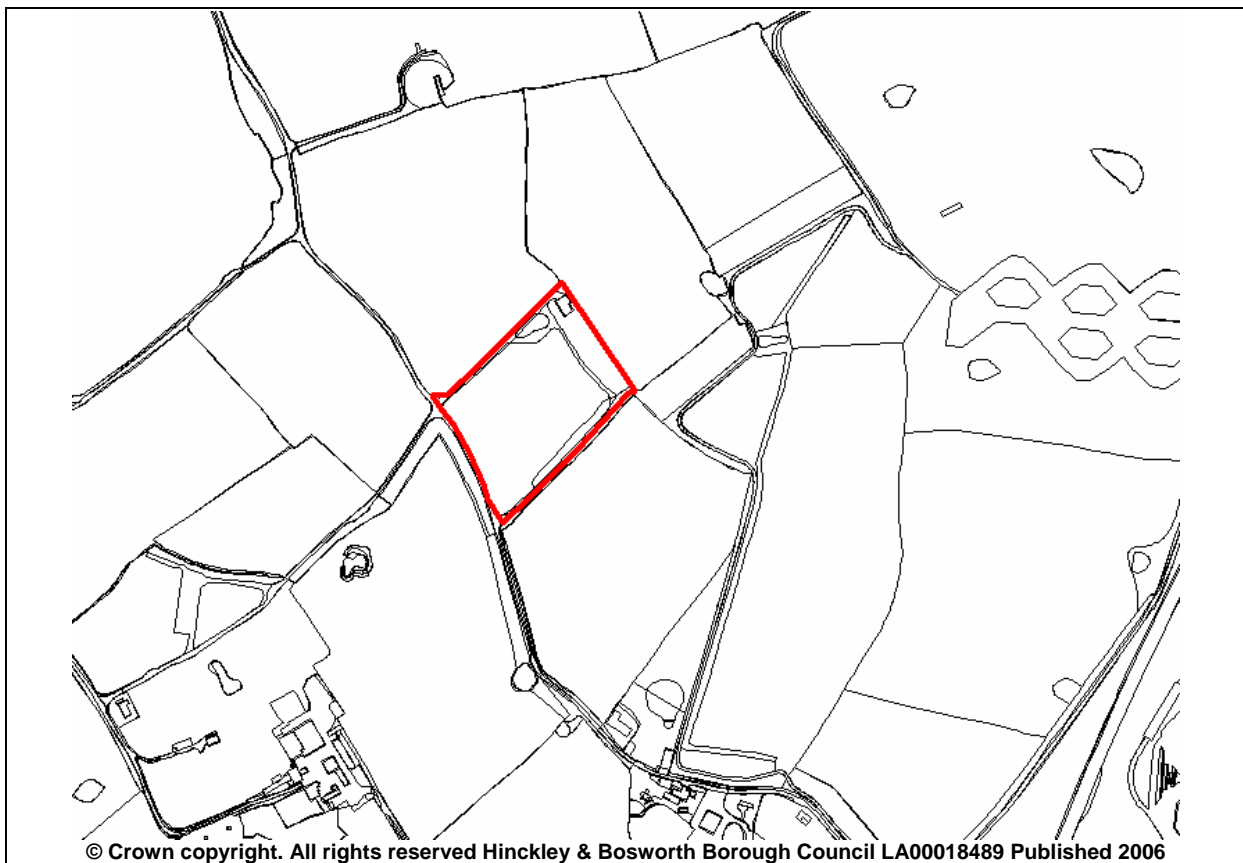
The entrance/egress is via an access road off Fenn Lane. The access road comprises concrete road surfacing and some tarmac areas. The access continues from Fenn Lane to the site access point located in the southern corner which is controlled by a barrier.

Technical Documents submitted with application

The application is accompanied by a Supporting Statement which outlines the nature and context of the proposed facility. A Process Management Plan which identifies aspects of the development that could potentially generate nuisance, actions to be implemented and a monitoring scheme. A Flood Risk Assessment which demonstrates that the site is not a risk of flooding from groundwater sources or overland flow from adjacent land. An Ecological Appraisal which assesses ecological constraints to development from the presence of protected species. Landscaping Statement to be read in conjunction with the landscaping plan. A Noise Survey undertaken to determine background noise levels at nearby noise sensitive properties.

**History:-**

09/00592/C	Open windrow composting facility for the processing of up to 75,000 tonnes of waste per annum (County Matter)	Refused Appeal Dismissed	16.11.10
08/00899/C	Creation of Composting Site (County Matter)	Refused	



**Consultations:-**

No consultations undertaken - this is a County Matter

## **Policy:-**

### National Policy Guidance

Government advice on planning and waste management is set out in the Waste Strategy 2007 and Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management. The Waste Strategy was published in May 2007 and updates the earlier Waste Strategy 2000. It describes the need for a significant change in the way in which waste is managed to reduce the amount that is taken to landfill and to promote the recycling and re-use of materials. The Strategy sets a target to recycle or compost at least 40% of household waste by 2010, 45% by 2015 and 50% by 2020 and to recover 53% of municipal waste by 2010, 67% by 2015 and 75% by 2020. The Government therefore encourages efforts to reduce waste and substantially increase re-use, recycling and composting.

PPS10 provides advice about how the land use planning system should contribute to sustainable waste management through the provision of the required waste management facilities in England. It continues to promote sustainable development and the waste hierarchy of reduction, re-use, recycling and composting and energy recovery, with disposal as the last option. It also explains the relationship between the planning and pollution control regimes.

Planning Policy Statement 23 Planning and Pollution Control also states that the planning and pollution control systems are separate but complementary, and that the planning system should focus on whether the development itself is an acceptable use of the land, and the impacts of those uses, rather than the control of processes or emissions themselves. It advises that planning authorities should work on the assumption that the relevant pollution control regime will be properly applied and enforced, and they should act to complement but not seek to duplicate it.

### Regional Policy Guidance

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

The current Regional Spatial Strategy for the East Midlands (RSS8) was published in March 2009 as the East Midlands Regional Plan. It provides a broad development strategy for the East Midlands up to 2026, setting out the regional guidance for development in the East Midlands and applying the general principles for sustainable development which are contained in national guidance.

The Regional Core Objectives set out in the Plan include the protection and enhancement of the environment by reducing the amount of waste produced and increasing the amount recycled or otherwise beneficially managed.

The Plan also sets minimum targets for the recycling and composting of municipal solid waste. Detailed policies are to be developed through the Regional Waste Strategy (RWS), which is to be based on the following principles:-

- Working towards zero growth in waste by 2016
- Reducing the amount of waste sent to landfill
- Exceeding government targets for recycling and composting to achieve levels of current best practice, and
- Taking a flexible approach to other forms of waste recovery on the basis that technology in this area is developing very quickly.

Whilst not part of the Development Plan, the East Midlands Regional Waste Strategy is a material consideration and Policy 1.7 states that Waste Development Plans should allocate specific sites for a range of types and scales of waste management facilities, with such sites being assessed against the following criteria:-

- Proximity to existing or major new or planned developments
- Good transport connections, with preference given to rail and water
- Compatible land uses including active mineral sites, previous or existing industrial land use, contaminated or derelict land, land adjoining sewage treatment works, and
- Locally based environmental and amenity criteria.

#### Local Development Framework Core Strategy 2009

None relevant

#### Hinckley and Bosworth Local Plan 2001

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

Policy NE14 presumes against development which will adversely affect the water quality and ecology of watercourses and groundwater resources.

Policy T11 states that proposals for development likely to generate significant traffic flows, especially heavy goods vehicles, should not have a detrimental effect on the local traffic situation. Where this may occur, developers should provide a Traffic Impact Assessment of their proposals at the application stage.

#### Other material policy guidance

The County Council (in conjunction with Leicester City Council) is preparing its Waste Development Framework (WDF), which replaces the previous Waste Local Plan. The Core Strategy and Development Control Policies document was adopted by the County Council in October 2009.

Policy WCS3 states that strategy for non-strategic waste sites is to locate them in the following areas, taking into account the principles set out in Policy CS4: Waste Location Principles:-

- a) in the Broad Locations indicated in the Key Diagram
- b) in or close to the main urban areas of Hinckley or Melton Mowbray
- c) within sustainable urban extensions
- d) within or adjacent to an existing waste facility.

Where it can be demonstrated that a more dispersed location outside the above areas is necessary, locations in smaller settlements or rural areas will be considered subject to the principles set out in Policy WCS4.

Policy WCS4 contains the strategy for locating waste sites, including a sequential approach for their location. The policy gives the highest priority to locations on land with an existing waste management use where transport, operational and of waste management facilities.

Policy WCS5 states that the strategy for re-use, recycling, waste transfer and composting facilities is to allow new waste management development, provided the proposal does not cause unacceptable harm to the environment or communities.

Policy WCS10 sets out the strategy for environmental protection, which aims to protect the natural and built environment by ensuring that no unacceptable impacts arise from development.

Policy WCS14 states that the strategy for the transportation of waste is to locate new waste developments in close proximity to arisings in order to minimise the need to transport waste, in close proximity to the County's lorry route network, and in locations where rail or water transport could be secured for the movement of waste in order to maximise the potential to use alternative transport.

Policy WDC5 states that planning permission will not be granted for waste management development in the countryside, unless it can be demonstrated that the development is such that it cannot be accommodated in urban areas; there is an overriding need for the development; and that the landscape character of the area will not be harmed.

Policy WDC8 presumes against waste management development which is likely to generate significant adverse impacts from noise, dust, vibration, odour emissions, illumination, visual intrusion or traffic.

Policy WDC14 states that applications for waste management development should be supported by sufficient plans, drawings and details.

### **Appraisal:-**

The main considerations with regard to this application are the principle of the development, the impact on highway safety, ecology, pollution and the impact on nearby residential properties.

### The Principle of Development

Policy at all levels aims to achieve sustainable waste management. Planning Policy Statement 1- Delivering Sustainable Development sets out the general principles of sustainable development, which include reducing the need to travel, bringing vacant previously developed land back into use, and enhance and protect biodiversity. Planning Policy Statement 10 - Planning for Sustainable Waste Management reaffirms the government's aim to move waste management up the waste hierarchy by encouraging the re-use, reduction and recycling of waste rather than its disposal. It also stresses the need to

provide sufficient waste management facilities of the right type, in the right place and at the right time.

The Inspector in determining the appeal, amongst other matters, stated that the site's relative remoteness from the larger urban areas, and the transport consequences that stem from this, indicate that the proposed facilities would not be in the right place. While there may be merit in the principle of a more dispersed location and while the facilities would involve previously developed land the overall conclusion was, following Policy WDC5, an overriding need for the development at the proposed location was not demonstrated and that the appeal was dismissed.

### Highway Safety

It is noted that the Highway Authority had no objection on highway grounds to the previous proposal. This response was based on the number of vehicle movements the proposal would generate and subject to adequate visibility splays being created at the site entrance onto Fenn Lane and junction improvements at A444/Fenn Lane junction. The Inspector in determining the appeal was satisfied that this could be achieved through a Grampian condition. The County Council as the determining planning authority will formally consult the Highway Authority on this proposal; however at the time of writing this report the Borough Council is not aware of the Highway Authority's response.

### Ecology

The accompanying ecology report states that the botanical interest within the site is very limited as plant species were not notable or rare. No evidence of protected species was observed within the curtilage of the site. Furthermore, no suitable habitat for reptiles, amphibians, badgers or bats has been identified on site. It is noted that the proposed development will result in the loss of minimal areas of natural/semi-natural habitats and the report suggests that enhancements could be provided by using locally native species wherever feasible in any landscape of the site providing further links across the site and foraging for wildlife. The nature of composting material may potentially result in the leaching of nutrients into the surrounding soil thus enriching the area. Habitats surrounding the site did not exhibit nutrient poor characteristics and so this is unlikely to alter the composition of the surrounding land. The County Council as the determining planning authority will formally consult the Directorate of Chief Executive (Ecology) on this proposal; however at the time of writing this report the Borough Council is not aware of the Ecology response.

### Environmental Impacts

The Head of Community Services (Pollution) raised several concerns in relation to the previous application. The concerns were in respect of odour management and potential noise issues and in the absence of clarification recommended refusal. An initial consultation response on the amended scheme has been forwarded from the Borough Council's Pollution Officer. Again the response raises concerns over the lack of information submitted and requests clarification prior to submitting formal comments.

### Impact upon Residential Amenity

The impact of the site on residential amenity would depend on a number of factors associated with vehicle movements and pollution the responses from the relevant consultees would provide clarity on any potential impact on residential amenity.



## Conclusion

The application proposes a large scale composting operation at a comparatively remote location. In determining the appeal, the Inspector concluded that, following Policy WDC5, an overriding need for the development at the proposed location has not been demonstrated and that the appeal should be dismissed. The conclusion was reinforced by the uncertainties surrounding the proposal in terms of odour emissions. It is considered that this revised submission does not address the previous objections raised and therefore the Borough Council objects to the application.

**RECOMMENDATION:- That the Leicestershire County Council be advised that Hinckley & Bosworth Borough Council has the following comments to make:-**

It is considered that this revised submission does not address the previous objections raised and therefore the Borough Council objects to the application.

**Contact Officer:-** Cathy Horton Ext 5605

**PLANNING COMMITTEE – 19 JULY 2011**

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

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**1. PURPOSE OF REPORT**

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

**2. RECOMMENDATION**

That the report be noted.

**3. BACKGROUND TO THE REPORT**

Appeals Lodged

Appeal by Ms Dawn Stevens against the refusal of full planning permission for extensions and alterations (11/00010/FUL) at 64 Barrie Road, Hinckley

Appeal by David Durrant against the refusal of certificate of lawful proposed use for dwelling house as children's care home (11/00279/CLU) at 15 Crown Hill Road, Burbage

Appeals Withdrawn

None

Appeals Determined

None

**4. FINANCIAL IMPLICATIONS (CB)**

Potential legal costs can be met from existing budgets

**5. LEGAL IMPLICATIONS (MR)**

None

**6. CORPORATE PLAN IMPLICATIONS**

This document contributes to Strategic Aim 3 of the Corporate Plan

- Safer and Healthier Borough.

**7. CONSULTATION**

None

**8. RISK IMPLICATIONS**

None

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

None

**10. CORPORATE IMPLICATIONS**

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

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

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Background papers: Appeal Decisions

Contact Officer: Kevin Roeton Planning Officer ext. 5919

**PLANNING COMMITTEE - 19 JULY 2011**

**REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)**

**RE: APPEALS PROGRESS**

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**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.

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Background Papers:

Contact Officer: Simon Wood, extension 5692

## PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 08.07.11

**WR - WRITTEN REPRESENTATIONS**

**IH - INFORMAL HEARING**

**PI - PUBLIC INQUIRY**

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
	LR	10/00176/UNAUTH	WR	Mr K McEwan	30-32 High Street Earl Shilton	<i>Awaiting Start Date</i>	
11/00013/CLD	NC	11/00279/CLU	WR	Mr David Durrant	15 Crownhill Road Burbage	<i>Start Date</i> Questionnaire Statement Final Comments	<i>01.07.11</i> <i>15.07.11</i> <i>12.08.11</i> <i>02.09.11</i>
11/00012/FTPP	LF	11/00010/FUL	WR	Ms Dawn Stevens	64 Barrie Road Hinckley	<i>Start Date</i> Awaiting Decision	<i>09.06.11</i>
11/00011/VCON	EM	11/00108/CONDIT	WR	Mr Cemic Yavuz	11 Windsor Street Burbage	<i>Start Date</i> Awaiting Decision	<i>03.05.11</i>
11/00010/PP	RW	10/00799/FUL	WR	Christopher Harbot	Rear of 132-136 Main Street Markfield	<i>Start Date</i> Awaiting Decision	<i>05.04.11</i>
11/00009/PP	EM	10/00908/FUL	WR	Mr Jogi Singh	The Pantry 102 Rugby Road Hinckley	<i>Start Date</i> <i>Awaiting</i> <i>Decision</i>	<i>29.03.11</i>
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> Awaiting Decision	<i>02.02.11</i>
10/00011/PP	RW	09/00915/OUT	PI	Mr John Knapp	26/28 Britannia Road Burbage	<i>Start Date</i> Awaiting Decision	<i>15.11.10</i>
09/00017/ENF	JC/ES	07/00031/BOC	PI	Mr P Godden	Land at Upper Grange Farm Ratby Lane Markfield	<i>Start Date</i> Statement of Case Public Inquiry (4 days) Temporarily Suspended	<i>06.11.09</i> On hold pending JR

**Decisions Received**

**Rolling 1 April 2011 - 8 July 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