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Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**Steve Atkinson** MA(Oxon) MBA FIoD FRSA  
Chief Executive

Date: 03 October 2016

To: **Members of the Planning Committee**

Mr R Ward (Chairman)	Mr C Ladkin
Mr BE Sutton (Vice-Chairman)	Mr LJP O'Shea
Mr PS Bessant	Mr RB Roberts
Mrs MA Cook	Mrs H Smith
Mrs GAW Cope	Mrs MJ Surtees
Mr WJ Crooks	Miss DM Taylor
Mrs L Hodgkins	Ms BM Witherford
Mr E Hollick	Ms AV Wright
Mrs J Kirby	

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 De Montfort Suite - Hub on **TUESDAY, 11 OCTOBER 2016** at **6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Owen'.

Rebecca Owen  
Democratic Services Officer

## PLANNING COMMITTEE - 11 OCTOBER 2016

### A G E N D A

1. APOLOGIES AND SUBSTITUTIONS

2. MINUTES (Pages 1 - 4)

To confirm the minutes of the meeting held on 13 September 2016.

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

The Deputy Chief Executive (Community Direction) to report progress on any decisions delegated at the previous meeting.

7. 16/00822/FUL - MILL HOUSE, HIGHAM LANE, STOKE GOLDING (Pages 5 - 10)

Application for alterations to building including new windows and doors.

8. 16/00828/GPGDO - MILL HOUSE, HIGHAM LANE, STOKE GOLDING (Pages 11 - 16)

Prior notification for change of use from storage and distribution (class B8) to five dwellings (class C3).

9. 16/00636/HOU - 38 FARAY DRIVE, HINCKLEY (Pages 17 - 24)

Application for two storey rear extension.

10. 16/00757/FUL - 5 WHITE HOUSE CLOSE, GROBY (Pages 25 - 32)

Application for erection of one dwelling (resubmission).

11. 15/01202/FUL - THE BULLS HEAD, 88 MAIN STREET, NAILSTONE (Pages 33 - 44)

Application for alterations to public house and erection of four dwellings.

12. 16/00693/FUL - 110 KIRKBY ROAD, BARWELL (Pages 45 - 54)

Erection of single storey dwelling (resubmitted scheme).

13. 16/00654/COU - LAND NORTH WEST OF ST PETER'S C OF E PARISH CHURCH, CHURCH ROAD, SHACKERSTONE (Pages 55 - 64)

Change of use from open land to burial ground.

14. 15/01119/FUL - 87 HIGH STREET, BARWELL (Pages 65 - 78)

Application for extensions / alterations to existing two retail units and one residential unit to

form one retail units and five self-contained apartments.

15. APPEALS PROGRESS (Pages 79 - 108)

Report of the Deputy Chief Executive (Community Direction) attached.

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

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# Agenda Item 2

## HINCKLEY AND BOSWORTH BOROUGH COUNCIL

### PLANNING COMMITTEE

13 SEPTEMBER 2016 AT 6.30 PM

PRESENT: Mr R Ward - Chairman  
Mr BE Sutton – Vice-Chairman  
Mr CW Boothby (for Mr PS Bessant), Mr MB Cartwright (for Miss DM Taylor),  
Mrs MA Cook, Mrs GAW Cope, Mr WJ Crooks, Mrs L Hodgkins, Mr E Hollick,  
Mrs J Kirby, Mr C Ladkin, Mr LJP O'Shea, Mr RB Roberts, Mrs H Smith,  
Mrs MJ Surtees, Ms BM Witherford and Ms AV Wright

In accordance with Council Procedure Rule 4.4 Councillors Mr SL Rooney were also in attendance.

Officers in attendance: Gemma Dennis, Rebecca Owen, Michael Rice and Nic Thomas

#### 168 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Councillors Bessant and Taylor, with the following substitutions authorised in accordance with Council Procedure Rule 4:

Councillor Boothby for Councillor Bessant  
Councillor Cartwright for Councillor Taylor.

#### 169 MINUTES

Councillor O'Shea drew attention to minute 125 of the previous meeting and stated that he had seconded the motion to grant permission. He moved that the minutes be approved subject to this amendment. The motion was seconded by Councillor Cartwright and it was

**RESOLVED** – the minutes be approved subject to the abovementioned amendment and signed by the Chairman.

#### 170 DECLARATIONS OF INTEREST

Councillor O'Shea declared a personal, non-pecuniary interest in application 15/00767/OUT as a county councillor but stated he had had no involvement in the matter at the County Council. His son also lived opposite the site.

#### 171 DECISIONS DELEGATED AT PREVIOUS MEETING

It was noted that all decisions from the previous meeting had been issued. Application 15/00767/OUT, upon which a decision had not been reached at the previous meeting, was on the agenda for this meeting.

#### 172 15/00767/OUT - FORMER HIGHWAY LAND, LEICESTER ROAD, GROBY

Application for residential development (outline – access only)

Notwithstanding the officer's recommendation that the application be approved, it was moved by Councillor O'Shea and seconded by Councillor Cartwright that the application be refused on grounds of highway safety and flood risk.

The Chief Planning and Development Officer requested that voting on the motion be recorded. The vote was taken as follows:

Councillors Boothby, Cartwright, Hollick, Kirby, O'Shea, Roberts, Smith and Witherford voted FOR the motion (8);

Councillors Cook, Cope, Crooks, Hodgkins, Ladkin, Surtees, Sutton, Ward and Wright voted AGAINST the motion (9).

The motion was therefore declared LOST.

It was then moved by Councillor Sutton and seconded by Councillor Hodgkins that the application be approved. The Chief Planning and Development Officer requested that voting on this motion be recorded. The vote was taken as follows:

Councillors Cook, Cope, Hodgkins, Ladkin, Surtees, Sutton and Ward voted FOR the motion (7);

Councillors Boothby, Cartwright, Hollick, O'Shea and Witherford voted AGAINST the motion (5);

Councillors Crooks, Kirby, Roberts, Smith and Wright abstained from voting.

The motion was declared CARRIED and it was

RESOLVED – permission be granted subject to completion of a S106 agreement and the conditions contained in the officer's report.

173 15/01318/OUT - LAND AT BATTLEFLAT LODGE FARM, VICTORIA ROAD, STANTON UNDER BARDON

Outline application for storage and distribution uses (class B8), general industry (class B2) and associated infrastructure including the formation of a new access (accompanied by an environmental statement) (cross boundary application with North West Leicestershire District Council) (outline – access only)

Whilst generally in support of the application, some members felt that the county council should be urged to ensure that the S106 contributions to highways were used for highway improvements in the immediate area. Officers agreed to have a discussion with the county council and to involve ward councillors.

It was moved by Councillor Cartwright, seconded by Councillor O'Shea and

RESOLVED – permission be granted subject to completion of a S106 agreement and the conditions contained in the officer's report and late items.

174 14/01189/OUT - SKETCHLEY HILL HOUSE, RUGBY ROAD, BURBAGE

This application had been withdrawn from the agenda to allow for further discussions to take place following receipt of correspondence from Leicestershire County Council (highways).

175 16/00576/FUL - CHEQUERS INN, 30 LUTTERWORTH ROAD, BURBAGE

Application for erection of play area, play equipment, decking and timber framed structure (retrospective)

It was moved by Councillor Crooks, seconded by Councillor Cope and

RESOLVED – permission be granted subject to the conditions contained in the officer's report.

176 16/00600/FUL - 31 CHURCH STREET, EARL SHILTON

Application for erection of three dwellings and associated parking.

It was moved by Councillor Ladkin, seconded by Councillor Sutton and

RESOLVED – permission be granted subject to the conditions contained within the officer's report.

177 APPEALS PROGRESS

During discussion on the report, an update was provided in relation to the Good Friday site and it was noted that there would be an informal hearing into the matter but that it was unlikely the decision would be received by January 2017.

RESOLVED – the report be noted.

178 ENFORCEMENT UPDATE

Members received an update on enforcement matters. It was moved by Councillor Boothby, seconded by Councillor Ladkin and

RESOLVED – the report be noted.

Councillor Crooks was absent during voting on this item.

(The Meeting closed at 7.20 pm)

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CHAIRMAN

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Planning Committee 11 October 2016  
Report of the Chief Planning and Development Officer

Planning Ref: 16/00822/FUL  
Applicant: Mr Reg Ward  
Ward: Ambien

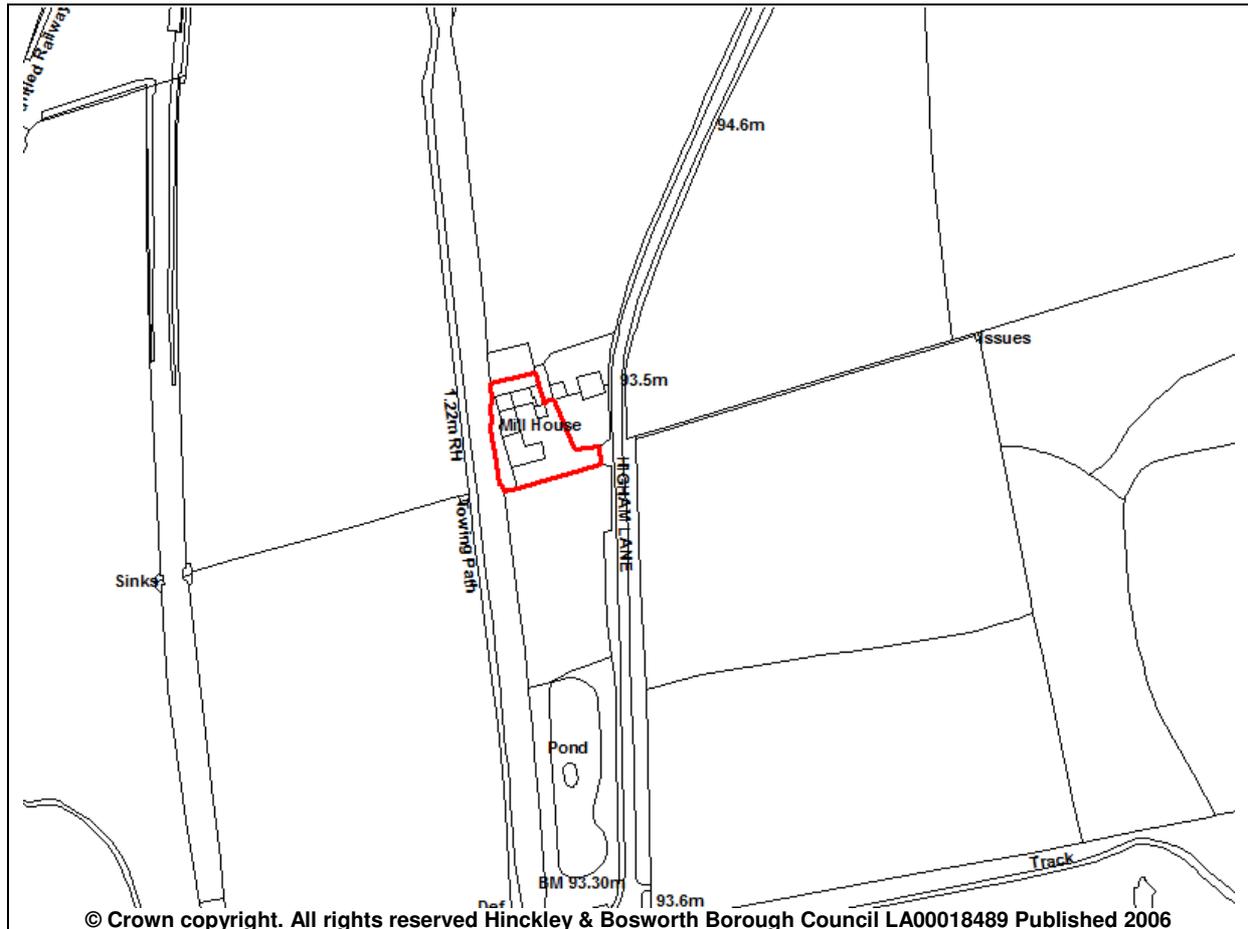


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Site: Mill House Higham Lane Stoke Golding

Proposal: Alterations to building including new windows and doors.



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

### 1.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

## 2. Planning Application Description

- 2.1. This application seeks full planning permission for alterations to the external elevations of a storage building. The proposal includes the insertion of new windows and doors and infill of some existing openings. Proposed external materials are render and sections of horizontal boarding, concrete roof tiles and double glazed timber windows and doors. Detailed window and door designs and sections have been submitted to support the application.

- 2.2. The proposed alterations are required in connection with the proposed change of use of the building from storage (Use Class B8) to five dwellings (Use Class C3) under the provisions of Class P of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015. A separate application for prior approval for the proposed change of use has been submitted (reference 16/00828/CPGDO) and is reported as a separate item on this agenda.

### 3. Description of the Site and Surrounding Area

- 3.1. The application site measures approximately 0.15 hectares and is located in the countryside approximately 500 metres to the south west of Stoke Golding and to the west of Higham Lane. The storage building to which this application relates is located towards the rear of the site and has two storey and single storey wings with pitched roof design arranged around a central courtyard. It is constructed of white painted render, concrete roof tiles and has a variety of windows, doors and openings.
- 3.2. Mill House, a two storey detached dwelling constructed of white painted render and concrete roof tiles and occupied by the applicant, lies immediately to the east of the storage building. The Ashby Canal Conservation Area lies immediately to the west of the building. There are agricultural fields to the north and a grassed paddock to the south of the site.
- 3.3. There is a double width vehicular access and separate additional pedestrian access from Higham Lane serving the storage building and Mill House. The access gates are located 5.5 metres behind the Higham Lane carriageway and open inwards. There are visibility splays defined by brick walls to either side of the access.

### 4. Relevant Planning History

85/00581/4	Erection of building for garaging and storage in connection with milk distribution business	Permitted	23.07.1985
78/00088/4M	Construction of garages for milk floats	Permitted	21.02.1978
77/00397/4M	Demolition of building and construction of cold room and loading dock	Permitted	26.04.1977
75/01171/4M	Erection of garage and store room	Permitted	05.09.1975

### 5. Publicity

- 5.1. The application has been publicised by the posting of a site notice within the vicinity of the site. There are no adjacent residential neighbours.
- 5.2. No responses have been received at the time of writing as a result of public consultation.

### 6. Consultation

- 6.1. Support for the proposed alterations have been received from:-

Ashby Canal Association  
 Canal and River Trust  
 Inland Waterways Association  
 Conservation Officer

- 6.2. No objection has been received from:-  
Environmental Health (Pollution)  
Environmental Health (Drainage)
- 6.3. Leicestershire County Council (Ecology) raise no objections to the proposed alterations to the building but raise concerns regarding potential impact on Water Vole of the change of use of the area adjacent to the canal bank for residential gardens.
- 6.4. No response has been received at the time of writing from:-  
Leicestershire County Council (Drainage)  
Stoke Golding Parish Council  
Stoke Golding Heritage Group  
Street Scene Services (Waste)
- 6.5. The consultation period remains open at the time of writing and closes on 7 October 2016. Any further consultation response received before the closing date will be reported and appraised as a late item.

## **7. Policy**

- 7.1. Core Strategy (2009)
- No relevant policies
- 7.2. Site Allocations and Development Management Policies (SADMP) DPD (2016)
- Policy DM4: Safeguarding the Countryside and Settlement Separation
  - Policy DM10: Development and Design
  - Policy DM11: Protecting and Enhancing the Historic Environment
  - Policy DM12: Heritage Assets
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
  - Planning Practice Guidance (PPG)
  - Planning (Listed Buildings and Conservation Areas) Act 1990
- 7.4. Other relevant guidance
- Ashby Canal Conservation Area Appraisal and Map

## **8. Appraisal**

- 8.1. The change of use of the building from storage (Use Class B8) to five dwellings (Use Class C3) is subject to consideration by a separate application for prior approval (reference 16/00828/CPGDO) submitted under the provisions of Class P of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 reported as a separate item on this agenda.
- 8.2. Key issues in the assessment of this application are:
- Impact of the proposed alterations on upon the character and appearance of the building, the Ashby Canal Conservation Area and the surrounding countryside.
  - Impact upon neighbouring residential amenity
  - Other issues

Impact of the proposed alterations on upon the character and appearance of the building, the Ashby Canal Conservation Area and the surrounding countryside

- 8.3. Policy DM4 of the adopted SADMP supports the change of use or re-use of existing buildings which would lead to an enhancement of the immediate setting and requires that development in the countryside does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.
- 8.4. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally. The NPPF in paragraph 17 seeks to secure high quality of design and paragraph 58 seeks to ensure that development responds to local character and reflects the identity of local surroundings.
- 8.5. Policies DM11 and DM12 of the adopted SADMP seek to protect, conserve and enhance the historic environment and heritage assets. Section 12 of the NPPF seeks to preserve or enhance the historic environment and heritage assets. The Planning (Listed Buildings and Conservation Area) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character and appearance of conservation areas.
- 8.6. The Ashby Canal Conservation Area Appraisal (Management Plan Map 13) identifies the building as having a poor appearance.
- 8.7. The proposal includes alterations to existing windows, doors and openings and the insertion of additional windows and doors and infill sections to provide improved residential amenity for any future occupiers of the building and to enclose areas currently open to the courtyard. Detailed drawings of the proposed windows and doors together with sections have been submitted to support the application.
- 8.8. By virtue of their design and the use of sympathetic external materials that respect the existing building materials in the locality, the proposed alterations would enhance the appearance of the building, preserve the significance of and enhance the setting of the Ashby Canal Conservation Area and not result in any harm to the rural character and appearance of the surrounding countryside. The proposal would therefore be in accordance with Policies DM4, DM10, DM11 and DM12 of the adopted SADMP and the principles of Section 12 of the NPPF. The Conservation Officer raises no objections to the scheme.

Impact upon neighbouring residential amenity

- 8.9. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings and that the occupiers of the development would not be adversely affected by activities within the vicinity of the site. The NPPF in paragraph 17 seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.
- 8.10. By virtue of their position and orientation in relation to the existing dwelling, Mill House, and separation distances in excess of 27 metres, the proposed alterations to the building to provide additional windows and doors would not result in any significant adverse impacts on the privacy or residential amenity of the occupiers of Mill House.

- 8.11. Modest residential amenity areas are to be created immediately around the building to serve the proposed dwellings. Whilst some of these would abut the Ashby Canal, occasional passing narrow boats would not have any significant adverse impacts on residential amenity. The canal towpath runs along the west (far) side of the canal and would not have any adverse impacts on the future occupiers of the development. The proposal would therefore be in accordance with Policy DM10 of the adopted SADMP in this respect.

#### Other issues

- 8.12. Leicestershire County Council raise no objection to the proposed alterations to the building but raise concerns regarding potential impacts on Water Vole habitat as a result of changes to the use and landscaping of proposed garden areas. The change of use is subject to a separate prior approval application (reference 16/00828/CPGDO) reported as a separate item on this agenda. The change of use application is not subject to considerations in respect of ecology matters and the concerns raised are not relevant to this application for alterations to the elevations of the building. However, an informative note to the applicant/developer to raise awareness of this issue and their responsibilities in respect of separate legislation relating to protected species and their habitat could be included should the application be permitted.

### **9. Equality Implications**

- 9.1. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

- 9.3. There are no known equality implications arising directly from this development.

### **10. Conclusion**

- 10.1. The proposed alterations to the building would enhance its appearance, would preserve the significance, character and appearance of the Ashby Canal Conservation Area; would not result in any harm to the rural character and appearance of the surrounding countryside; and would not result in any significant adverse impacts on the residential amenity of any existing or future occupiers. The scheme would be in accordance with Policies DM4, DM10, DM11 and DM12 of the adopted SADMP and the overarching principles of the NPPF and the application is therefore recommended for approval subject to conditions.

### **11. Recommendation**

- 11.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

11.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

11.3. **Conditions and Reasons**

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

**Reason:** To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location Plan and Proposed Courtyard Elevations Drawing No. 363/216/03, Proposed Site Plan, Floor Plans and External Elevations Drawing No. 363/216/02 Rev B, Existing Floor Plans and Elevations Drawing No. 363/216/01 and Proposed Door and Windows Details Drawing Nos. 363/216/04, 363/216/05 and 363/216/06 received by the local planning authority on 6 September 2016.

**Reason:** To ensure a satisfactory appearance and impact of the development to accord with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The external elevations of the building shall be finished with matching white painted render, horizontal timber boarding finished in matt black, matching concrete roof tiles, timber doors and timber window frames finished in white.

**Reason:** To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policies DM10 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11.4. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. The applicant/developer is advised that the Ashby Canal has a population of Water Vole, a species protected by law, alterations to landscaping along the canal bank has the potential to have adverse impacts on habitat and therefore you are advised to contact Leicestershire County Council (Ecology) on (0116) 305 4108 for further advice.

Planning Committee 11 October 2016  
Report of the Chief Planning and Development Officer

Planning Ref: 16/00828/CPGDO  
Applicant: Mr Reg Ward  
Ward: Ambien

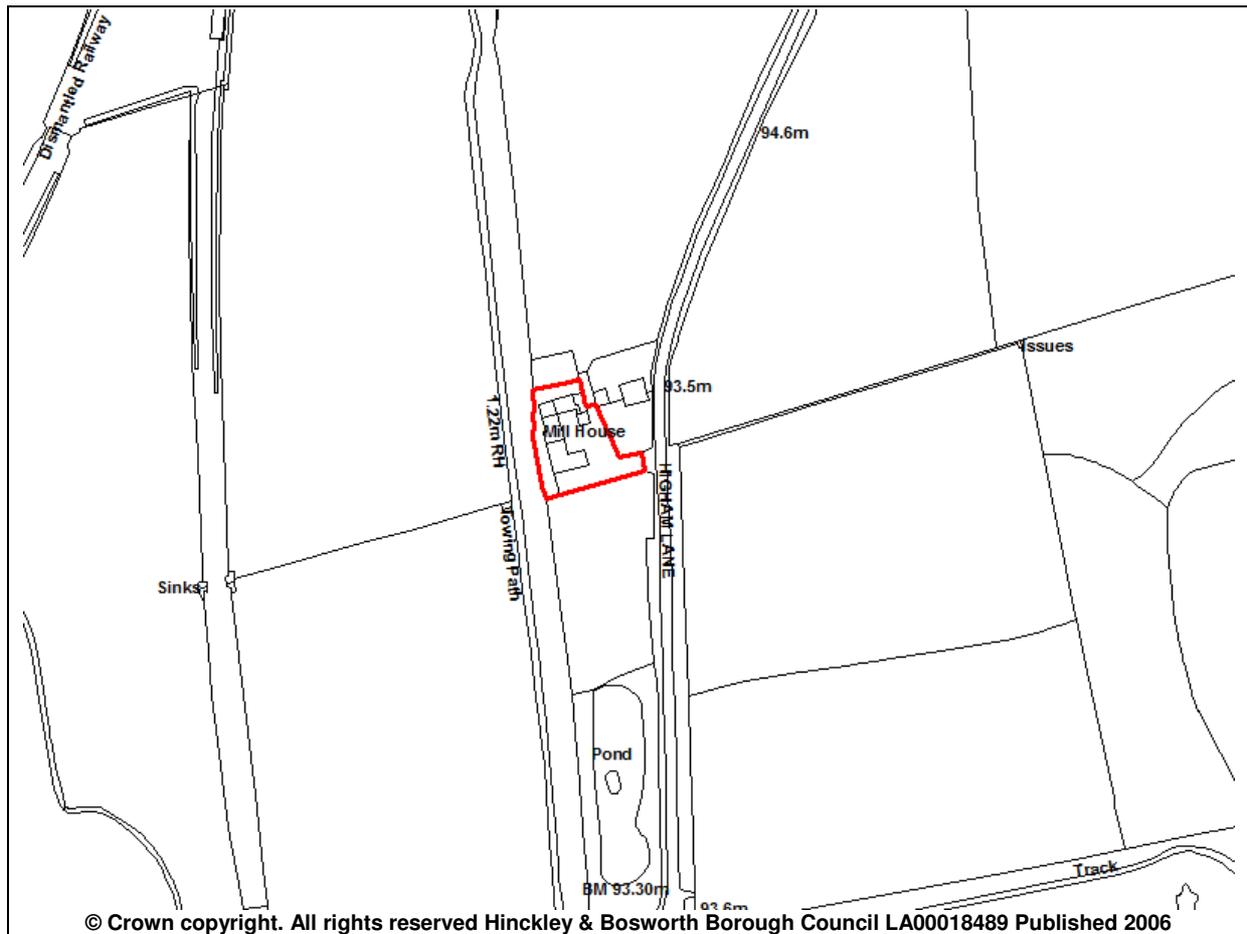


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Site: Mill House Higham Lane Stoke Golding

Proposal: Prior notification for change of use from storage and distribution  
(Class B8) to five dwellings (Class C3)



## 1. Recommendations

1.1. Subject to no significant issues being raised prior to the expiry of the consultation period on 7 October 2016, grant prior approval subject to:

- Planning conditions outlined at the end of this report.

## 2. Application Description

2.1. This application seeks a determination as to whether the prior approval of the local planning authority is required for the change of use of a storage building and curtilage land (Class B8) to five new dwellings with residential curtilage (Class C3).

2.2. A Planning Statement, existing floor plans and elevations, proposed floor plans and elevations and proposed window and door details have been submitted to support the application.

2.3. The proposed plans and elevations include alterations to the building that would require separate full planning permission. A planning application (reference 16/00822/FUL) has been submitted and is reported as a separate item in this agenda.

### **3. Description of the Site and Surrounding Area**

3.1. The application site measures approximately 0.15 hectares and is located in the countryside approximately 500 metres to the south west of Stoke Golding and to the west of Higham Lane. The storage building to which this application relates is located towards the rear of the site and has two storey and single storey wings with pitched roof design arranged around a central courtyard. It is constructed of white painted render, concrete roof tiles and has a variety of windows, doors and openings.

3.2. Mill House, a two storey detached dwelling constructed of white painted render and concrete roof tiles and occupied by the applicant, lies immediately to the east of the storage building. The Ashby Canal Conservation Area lies immediately to the west of the building. There are agricultural fields to the north and a grassed paddock to the south of the site.

3.3. There is a double width vehicular access and separate additional pedestrian access from Higham Lane serving the storage building and Mill House. The access gates are located 5.5 metres behind the Higham Lane carriageway and open inwards. There are visibility splays defined by brick walls to either side of the access.

### **4. Relevant Planning History**

85/00581/4	Erection of building for garaging and storage in connection with milk distribution business	Permitted	23.07.1985
78/00088/4M	Construction of garages for milk floats	Permitted	21.02.1978
77/00397/4M	Demolition of building and construction of cold room and loading dock	Permitted	26.04.1977
75/01171/4M	Erection of garage and store room	Permitted	05.09.1975

### **5. Publicity**

5.1. The application has been publicised by the posting of a site notice within the vicinity of the site. There are no adjacent residential neighbours.

5.2. No responses have been received at the time of writing as a result of public consultation.

### **6. Consultation**

6.1. No objections have been received from:-  
Leicestershire County Council (Highways)  
Environmental Health (Pollution)  
Environmental Health (Drainage)

6.2. No response has been received at the time of writing from Leicestershire County Council (Drainage).

6.3. The consultation period remains open at the time of writing and closes on 7 October 2016. Any further consultation response received will be reported and appraised as a late item.

## **7. Policy**

7.1. The determination as to whether the prior approval of the local planning authority is required for the change of use of the storage building and curtilage land (Use Class B8) to five new dwellings with residential curtilage (Use Class C3) must be assessed in accordance with the criteria and conditions of Schedule 2, Part 3, Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015.

## **8. Appraisal**

8.1. The main considerations in respect of this application are whether the proposed change of use meets the criteria and conditions for permitted development under the provisions of Schedule 2, Part 3, Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015.

8.2. Class P relates to development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) of the Schedule to the use Classes Order to a use falling within Class C3 (dwellinghouses).

8.3. Development is not permitted if the proposal fails to meet all of the criteria and conditions within Class P. An assessment of the proposal against the criteria and conditions within Class P follows:

### Criteria

8.4. P.1 Development is not permitted by Class P if-

(a) the building was not used solely for a storage or distribution centre use on 19 March 2014 or in the case of a building which was in use before that date but was not in use on that date, when it was last in use;

- Assessment - the building was used solely for storage on 19 March 2014.

(b) the building was not used solely for a storage or distribution centre use for a period of at least four years before the date of development under Class P begins;

- Assessment - the building has been used solely for storage and/or distribution since the 1970's as evidenced through the planning history of the site (see Section 4 above).

(c) the use of the building falling within Class C3 (dwelling houses) was begun after 15 April 2018;

- Assessment - the submitted Planning Statement confirms that the residential use will begin prior to 15 April 2018 and this can be controlled by the imposition of a planning condition.

(d) the gross floor space of the existing building exceeds 500 square metres;

- Assessment - the gross floor space of the existing building measures 427 square metres.

(e) the site is occupied by an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained;

- Assessment - the site is not occupied as an agricultural tenancy.

- (f) Less than one year before the date of development begins –
- (i) an agricultural tenancy over the site has been terminated, and
  - (ii) the termination was for the purpose of carrying out development under Class P, unless, both the landlord and tenant have agreed in writing that the site is no longer required for agricultural purposes;
    - Assessment - no agricultural tenancy has been terminated within the past year.
- (g) the building is within –
- (i) an area of outstanding natural beauty;
  - (ii) an area specified by the Secretary of State for the purposes of Section 41(3) of the Wildlife and Countryside Act 1981(a);
  - (iii) the Broads; or
  - (iv) a National Park;
  - (v) a World Heritage Site;
    - Assessment - the building is not within any of the above specified areas.
- (h) The site is, or forms part of –
- (i) a site of special scientific interest (SSSI);
  - (ii) a safety hazard area;
  - (iii) a military explosives storage area;
    - Assessment - the site is not and does not form part of any of the above specified areas.
- (i) the building is a listed building or is within the curtilage of a listed building;
  - Assessment - the building is not listed or within the curtilage of a listed building.
- (j) The site is, or contains a scheduled monument.
  - Assessment - the site is not and does not contain a scheduled monument.

### Conditions

8.5. P.2 Development is permitted by Class P subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to:-

- (i) impacts of air quality on the intended occupiers of the development;
  - Assessment - the site is adjacent to an existing dwelling and also a canal used principally for tourism and recreation purposes but is otherwise in the open countryside rather than on any industrial or employment site. Therefore there would not be any significant adverse impacts in relation to air quality on the intended occupiers of the development.
- (ii) transport and highway impacts of the development;
  - Assessment - there is a double width vehicular access from Higham Lane into the site surfaced in tarmac that serves the storage building and the adjacent dwelling. The double access gates and a

separate pedestrian gate are set back 5.5 metres from the carriageway to enable vehicles to pull clear of the highway. There are visibility splays to both sides defined by brick walls that terminate approximately 1 metre back from the carriageway. The proposal includes the formation of 12 car parking spaces and turning space to serve the existing and proposed dwellings.

- By virtue of the existing/potential lawful Class B8 storage use of the site and potential associated vehicle movements, the scale of development proposed for only five new dwellings, existing visibility from the access and proposed off-street parking provision, the proposed change of use would not result in any significant or severe transportation/highways impacts. Therefore Leicestershire County Council (Highways) raise no objections to the proposal.

(iii) contamination risks in relation to the building;

- Assessment - there are no known contamination risks associated with the land or building. Environmental Health (Pollution) has assessed the scheme and raises no objections to the proposal.

(iv) flooding risks in relation to the building;

- Assessment - notwithstanding that the site is adjacent to the Ashby canal, the site is within Flood Zone 1 and there are no known critical drainage problems in the area. It is not anticipated that there would be any significant flooding risk arising from the proposed change of use. Environmental Health (Drainage) has assessed the application and raises no objections to the proposal. The consultation response from Leicestershire County Council (Drainage) has not been received at the time of writing and any response received be reported as late item to the agenda.

(v) noise impacts of the development;

- Assessment - the proposed change of use to five new dwellings would not result in any significant noise impacts.

(vi) where the authority considers the building to which the development relates is located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services.

- Assessment - the building is not located in an area that is important for providing storage or distribution services, industrial services or a mix of those services.

8.6 Taking into account the above assessment, it is considered that the proposed development meets the various criteria and conditions set out within Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015.

## **9. Equality Implications**

9.1. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

9.3. There are no known equality implications arising directly from this development.

## **10. Conclusion**

10.1. From the submitted details and plans, available evidence and following a site visit, the proposed change of use from storage (Class B8) to five new dwellings (Class C3) would meet all of the criteria and conditions for permitted development under the provisions of Class P of the Town and Country Planning (General Permitted Development)(England) Order 2015.

10.2. By virtue of the relatively isolated countryside location of the site, former/authorised uses and the nature of the proposed use, the proposal would not result in any significant impacts in respect of transportation/highways, air quality, noise or contamination. Subject to no significant issues being raised in relation to flooding impacts prior to the expiry of the consultation period on 7 October 2016, the prior approval of the local planning authority should be granted subject to conditions.

## **11. Recommendation**

11.1. Subject to no significant issues being raised prior to the expiry of the consultation period on 7 October 2016, grant prior approval subject to:

- Planning conditions outlined at the end of this report.

## **11.2. Conditions and Reasons**

1. The use of the building for Class 3 (dwellinghouses) shall be begun on or before 15 April 2018.

**Reason:** To comply with the requirements of Schedule 2, Part 3, Class P (P.1(c)) of the Town and Country Planning (General Permitted Development) (England) Order 2015.

## **11.3. Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.

Planning Committee 11 October 2016  
Report of the Chief Planning and Development Officer

Planning Ref: 16/00636/HOU  
Applicant: Mr & Mrs Mark Hull  
Ward: Hinckley Clarendon

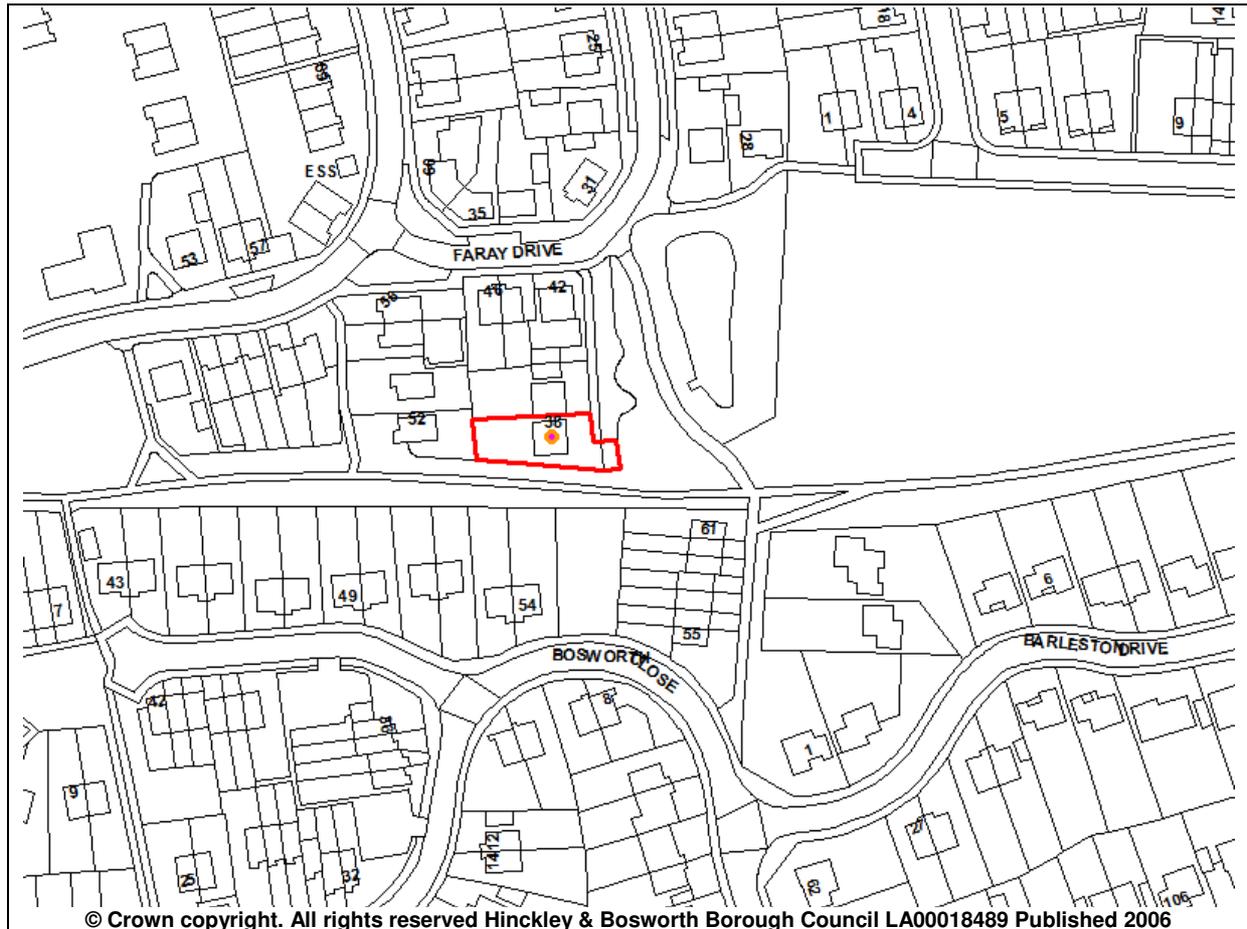


Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

Site: 38 Faray Drive Hinckley

Proposal: Two storey rear extension



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## 1. Recommendations

### 1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

### 1.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

## 2. Planning Application Description

2.1. This application seeks full planning permission for a two storey rear extension at 38 Faray Drive. The proposal would result in the addition of one bedroom resulting in a 4 bed roomed detached property.

2.2. Amended plans have been received addressing officer concerns on the impact upon neighbouring residential amenity. As a result, the proposal was stepped-in on

the side elevation to no 40. Faray Drive. Further to this, the proposed habitable window on the first floor rear elevation was moved to the side elevation facing the footpath and a high level window is now proposed on the rear elevation to reduce the mass of the brick.

- 2.3. The proposed two storey rear extension would project 3.3 metres with a width of 5.68 metres and would then be stepped in, only projecting 2 metres with a width of 1.6 metres. The proposed ground floor would project 3.3 metres and would extend the full width of the dwelling.

### **3. Description of the Site and Surrounding Area**

- 3.1. The application property is a two storey detached dwelling located in a residential estate adjacent similarly designed two-storey detached properties. The application site is located within the settlement boundary of Hinckley.
- 3.2. The application site is the last dwelling on the row of properties projecting away from Faray Drive. The property is set off the boundary with no. 40 Faray Drive by approximately 1.3 metres. To the south is a wide open space with a footpath and the rear gardens of the properties on Bosworth Close are situated approximately 11 metres away. To the front is a large open space.

### **4. Relevant Planning History**

None relevant.

### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. 10 letters of representation were received from seven different addresses raising the following concerns:-
- 1) Impact upon privacy
  - 2) Loss of light
  - 3) Overbearing
  - 4) Out of character with existing properties
  - 5) Impact upon noise
  - 6) Potential impact from the loft
  - 7) Impact upon parking
  - 8) Loss of view
  - 9) Loss of neighbouring property values
  - 10) Setting of a precedent within the area

### **6. Consultation**

- 6.1. No comments received from West Clarendon Neighbourhood Forum.

### **7. Policy**

- 7.1. Core Strategy

- None Relevant

- 7.2. Site Allocations and Development Management Policies DPD

- Policy DM1 – Presumption in Favour of Sustainable Development
- Policy DM10 – Development and Design
- Policy DM18 – Vehicle Parking Standards

### 7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

## 8. Appraisal

### 8.1. Key Issues

- Assessment against strategic planning policies
- Impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon the highway

#### Assessment against strategic planning policies

8.2. Paragraphs 11-13 of the National Planning Policy Framework (NPPF) state that the development plan is the starting point for decision making and that it is a material consideration in determining applications. The development plan in this instance consists of the Site Allocations and Development Management Policies (SADMP) DPD and the Core Strategy (2009).

8.3. Policy DM1 of the SADMP provides a presumption in favour of sustainable development. The policy sets out that development proposals that accord with the development plan should be approved without delay unless material considerations indicate otherwise.

8.4. The proposal is located within the settlement boundary for Hinckley, which is a sub regional center and the principle of a house extension is considered acceptable, subject to all other material planning considerations being acceptable.

#### Impact upon the character of the area

8.5. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. It is contended that the development proposed by this application would meet the aims and requirements of the above for the reasons given below.

8.6. The proposed two storey extension would be set down from the existing roof by approximately 0.5 metres, would match the gable roof style and the mono pitch roof would match the pitch of the existing and proposed dual pitched roof. The proposal would have a step back of 1.3 metres and would therefore not appear dominant or out of character with the host dwelling and would appear subordinate and subservient to the main dwelling. The proposed materials would match the existing and the proposed window detailing would be similar to the existing.

8.7. The application dwelling is a two storey detached property located adjacent to similarly designed two storey detached properties. The proposed two storey rear extension would project approximately 3.3 metres from the existing rear elevation with a width of 5.68 metres and would project 2 metres with a width of 1.6 metres. The proposal would extend the width of the dwelling with a gable elevation and a mono pitch roof. The proposal would not be visible from the street scene of Faray Drive. It would also be visible from the footpath to the south of the property and the rear gardens of Kinross Way. It is not considered that this would be detrimental to the character of the area due to the subordinate design of the extension. Therefore

the proposal would not have any significant adverse impact upon the character of the street scene or the area.

- 8.8. Three velux roof lights are proposed to the front of the property, which could be put in place under permitted development rights, and two velux roof lights are proposed upon the rear extension. The proposed roof lights would not unduly change the character of the dwelling or the surrounding area and are considered acceptable.
- 8.9. Concerns have arisen regarding the impact the proposal would have on the nine properties located in the immediate area. However due to the subordinate nature, minor projection and step back of the extension, the proposal would not impact upon the character of the street scene, host dwelling or the character of the nine properties located in the immediate area.
- 8.10. Overall the proposal is considered to complement the character of the existing dwelling and street scene in accordance with Policy DM10 of the SADMP.

#### Impact upon neighbouring residential amenity

- 8.11. Policy DM10 of the SADMP state that proposals should not adversely affect the occupiers of the neighbouring properties.
- 8.12. No. 40 Faray Drive is a two storey detached property located on the boundary with the application property with a large single storey rear conservatory. The application property is set level with no. 40 but is set off the common boundary by approximately 1.27 metres. The proposed extension would project 2 metres from the existing rear elevation with a step in of 1.6 metres to the gable elevation which projects 3.3 metres from the existing rear elevation. Therefore due to the set off distance from the boundary, the step in of 2 metres at first floor level and the mix of dual pitched roof and mono pitched roof, the proposal would not have any significant adverse impact upon the residential amenity of no. 40 in respect of loss of light or overbearing impacts. Further to this, a new window is located on the side elevation to no. 40 but as a result of amended plans, the window was moved to the centre of the side elevation to address potential privacy impacts. The one window proposed on the rear elevation would be a high level window and the other would be obscure glazed and top hung. There would therefore be no significant adverse impact upon residential amenity in respect of loss of privacy to no. 40. The velux window to this side elevation will be conditioned to have a cil height of 1.7m to address any significant privacy or overlooking impact to the rear garden of no. 40.
- 8.13. No. 52 Kinross Way is a two storey detached property located to the rear of the application property. The proposed extension would be set 8.85 metres from the rear boundary of no. 52 Kinross Way and would be set approximately 17 metres from the rear elevation of no. 52. The proposed extension would be set a far enough distance from no. 52 so as to not impact significantly with regard to loss of light or overbearing impacts. The proposed rear elevation would also have a high level window serving bedroom 1 and would not therefore result in any overlooking impacts to no. 52. The proposed bathroom window would be obscure glazed and top hung only to prevent any impacts upon privacy, with a condition attached to protect impacts from overlooking.
- 8.14. As a result of the siting and design of the proposal, and the location of adjacent properties, there would be no significant adverse impact upon the residential amenity of any adjacent properties.
- 8.15. Taking all of the above into account it is considered that the proposal complies with Policy DM10 of the SADMP.

### Impact upon Highway Safety

- 8.16. Policy DM18 of the SADMP state that proposals should provide an appropriate level of parking provision. Leicestershire County Council's 6Cs Design Guide states that dwellings with four or more bedrooms should provide three off street parking spaces.
- 8.17. The proposal would result in one additional bedroom. The property has three off street parking spaces, including a detached garage and would result in an acceptable parking provision in accordance with Policy DM18 of the SADMP and the 6C's Design Guide.

### Other Issues

- 8.18. Concerns have arisen regarding the impact the proposal would have on neighbouring property values and the loss of view from neighbouring properties. However these are not material planning considerations.
- 8.19. Concerns have also arisen regarding the proposal setting a precedent within the area. However each application is determined on a case by case basis and it is not considered that this proposal will create an issue of precedent.

## **9. Equality Implications**

- 9.1. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

## **10. Conclusion**

- 10.1. The proposal is located within the settlement boundary for Hinckley and there is a presumption in favour of sustainable development as set out in Policy DM1 and the wider policies of the NPPF.
- 10.2. The proposal would respect the scale and character of the existing dwelling and street scene, retain adequate private amenity within the curtilage and would not significantly affect the amenities of the occupiers of neighbouring properties. The application is considered to be in accordance with Policy DM1, DM10 and DM18 of the SADMP and is recommended for approval subject to conditions.

## **11. Recommendation**

- 11.1. **Grant planning permission** subject to:
- Planning conditions outlined at the end of this report.

11.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

11.3. **Conditions and Reasons**

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

**Reason:** To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Proposed Extension to the rear of the detached house drg. no. 1305/REV-B (scale 1:100 and 1:50) and Proposed Block Plan drg. no. 1305/BP (scale 1:500) received by the Local Planning Authority on 01 September 2016.

**Reason:** To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

3. The materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials of the existing dwelling.

**Reason:** To ensure that the development has a satisfactory external appearance to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

4. As shown on approved plan, Proposed Extension to the rear of the detached house (Drawing Number: 1305/REV-B), the high level window shown within the proposed rear elevation shall be constructed a minimum of 1.7 metres above the floor of the room which the window is installed.

**Reason:** To ensure the development does not have a detrimental impact upon neighbouring residential amenity to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

5. As shown on approved plan, Proposed Extension to the rear of the detached house (Drawing Number: 1305/REV-B), the roof light window within the Proposed Elevation to No. 40 shall be constructed a minimum of 1.7 metres above the floor of the room which the window is installed.

**Reason:** To ensure the development does not have a detrimental impact upon neighbouring residential amenity to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

6. The bathroom window to the rear elevation shall be fitted with obscure glazing to level 3 of the Pilkington Scale or above and shall be top hung only and shall thereafter be permanently retained in this approved form.

**Reason:** To ensure the development does not have a detrimental impact upon neighbouring residential amenity to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document.

11.4. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.

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Planning Committee 11 October 2016  
Report of the Chief Planning and Development Officer

Planning Ref: 16/00757/FUL  
Applicant: Mrs Rita Morley  
Ward: Groby

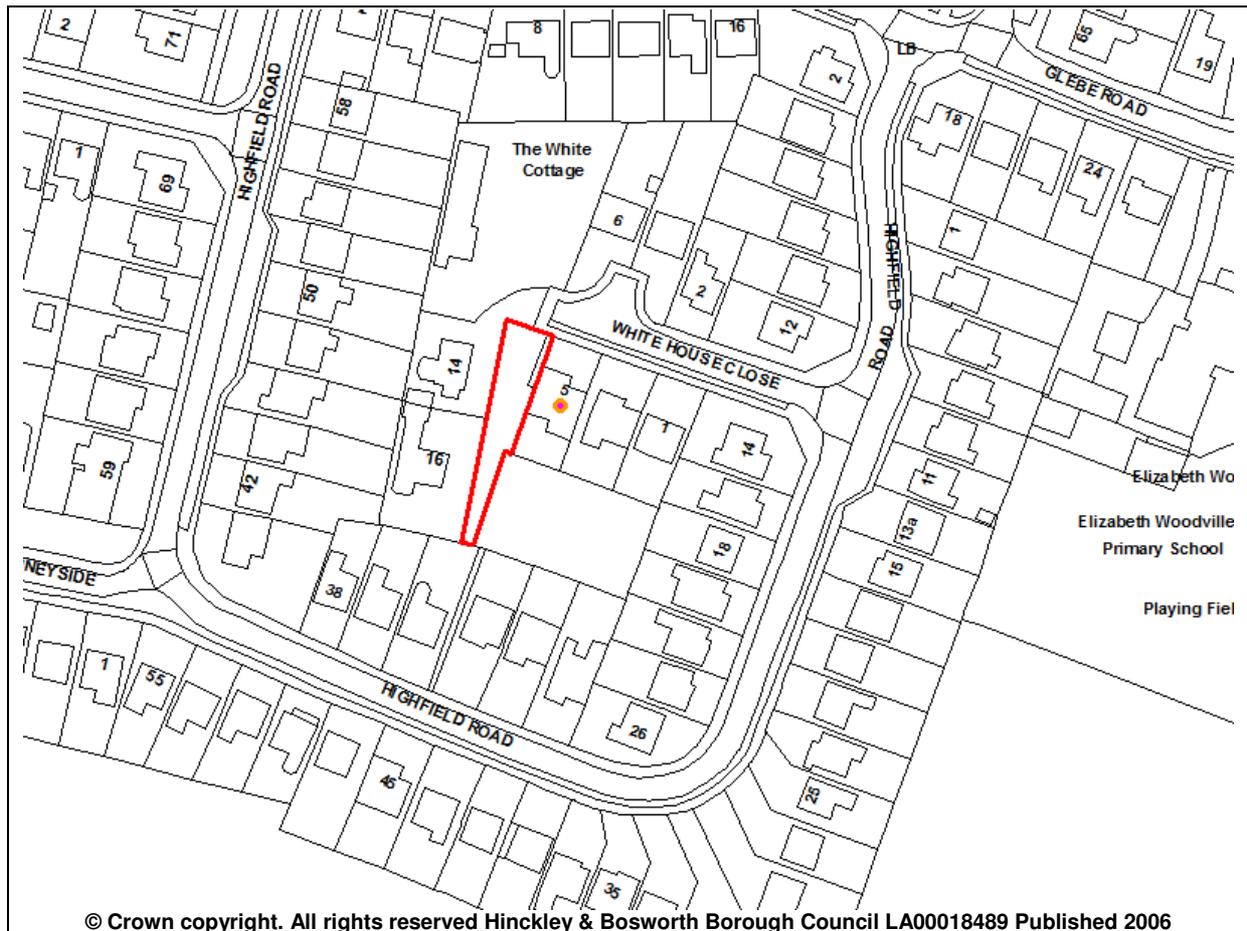


Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

Site: 5 White House Close Groby

Proposal: Erection of 1 dwelling (resubmission)



## 1. Recommendations

1.1. **Refuse planning permission:** subject to the reasons at the end of this report.

## 2. Planning Application Description

2.1. The application proposal relates to the erection of a 1 ½ storey two bedroom house within the side garden of the existing dwelling at No.5 White House Close. Dedicated parking space and a private rear garden are also proposed. The ridge height of the proposal would be approximately 6m with an eaves height of approximately 2.8m. The proposal provides an internal floor area of approximately 115sqm and a garden of approximately 116sqm.

2.2. The application is a resubmission of the previously refused scheme 15/01245/FUL refused under delegated powers on 22 January 2016 for the following reason:

*As a result of the scale, siting and layout of the proposal, when considering the size of the site and defined characteristics of the surrounding residential area, the development proposed would result in an incongruous, uncomplimentary, contrived form of development that would be detrimental to the character of the street scene and neighbouring residential amenity by way of overbearing impact and poor layout. The proposal is therefore considered to be contrary to the SPG Design Guidance on New Residential Development; the requirements of Saved Policy BE1 (a and i) of the adopted Hinckley and Bosworth Local Plan, Policy DM10 of the emerging Site Allocations and Development Management Policies DPD and the overarching intentions of the National Planning Policy Framework, with particular reference to Paragraphs 17 and 53.*

- 2.3. The scheme has been redesigned seeking to address the previous reason for refusal which. The revised scheme has resulted in a proposal with a more ‘modern’ appearance. The front gable feature has been removed and the proposed building relocated to be adjacent to the boundary of the existing host dwelling, at No.5 White House Close. This results in a different relationship between the proposed side wall of the dwelling and the front elevation of the adjacent bungalow at no 14 White House Close. The height and width of the proposed dwelling has been reduced and the line of the front elevation now in line at ground floor level with the front elevation of the host dwelling.

### **3. Description of the Site and Surrounding Area**

- 3.1. The application site comprises a detached dwelling located, at the end of a cul-de-sac, with gardens to the north, south and west. Whilst obscure in shape and form the garden area is larger than some of the adjoining properties and backs onto a local play area to the south. No. 5 White House Close is the last two-storey dwelling in the road and follows the general house design of White House Close. Its garden area creates separation between the end of the close and the three properties that sit beyond it. These three properties comprise 2 modern brick bungalows and The White Cottage, a large standalone two storey rendered property with a large garden curtilage.

### **4. Relevant Planning History**

03/00448/FUL	Single storey front extension	Permitted	10.06.2003
07/01414/FUL	Demolition of existing and erection of new garden room	Permitted	28.01.2008
15/01245/FUL	Erection of 1 dwelling	Refused	22.01.2016

### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site. There has been six letters of objections (from three separate households) and five letters of support (two of which are from the applicant and her son).
- 5.2. The reasons for objecting are:

- 1) Design out of keeping with surrounding properties
- 2) Too large within the available footprint
- 3) does not allow for minimum separation distances between neighbouring properties
- 4) no suitable access from the highway/danger to other road users
- 5) invasion of privacy
- 6) spoilt views
- 7) built beyond the existing building line
- 8) possible loss of light
- 9) proposed solar panels are ugly.

5.3. The reasons for supporting the application are:

- 1) Groby has lots of different styles of dwellings as does the immediate setting
- 2) Allows applicant to continue living in an area where she has lived since 1985
- 3) Frees up a larger family house for a family
- 4) Current property is too big.

## **6. Consultation**

6.1. The following consultees were notified of the application:

Leicestershire County Council (Highways) has no objections and refers to Standing Advice.

Environmental Health (Pollution) has provided no comments to the application.

Groby Parish Council has not submitted any comments.

## **7. Policy**

7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8 - Key Rural Centres relating to Leicester

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

## **8. Appraisal**

8.1. Key Issues

- Assessment against strategic planning policies
- Impact upon the character of the area
- Impact upon neighbouring residential amenity

- Impact upon the highway
- Drainage

#### Assessment against strategic planning policies

- 8.2. Core Strategy Policy 7 is the policy that covers Key Rural Centres. The policy states that housing will be supported within settlement boundaries. As the site is within the settlement boundary the proposal complies with this policy.
- 8.3. Groby is allocated as a Key Rural Centre in Policy 8 of the Core Strategy. The policy states that at this village, land will be allocated for a minimum of 110 dwellings. The adopted Site Allocations and Development Management Policies DPD (SADMP) states that the residual minimum housing requirement for Groby is 78 dwellings.
- 8.4. Given the above context, the principle of residential development of the site would be acceptable in terms of strategic planning policies subject to all other planning matters being satisfactorily addressed.

#### Impact upon the character of the area

- 8.5. White House Close is typical of the scale and style of housing of the areas in which it is located and comprises 9 dwellings with a strongly defined residential character. The three dwellings on the west side of the cul-de-sac (including the application property) are uniform in size and scale that share a similar front building line in similar plot sizes. On the east side, although different in design, the three dwellings are also uniform in scale and appearance. At the western end of White House Close and to the north-west of the application site is a larger dwelling from which the Close takes its name. That property dates from around the earlier part of the 20th century. Adjacent to the north-west boundary of the application site are 2 modern bungalows built in the early 1990's within the original rear garden of the White House. These are accessed via short private driveway and are not clearly visible from views along the cul-de-sac from Highfield Road.
- 8.6. Policy DM10 of the SADMP states that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. DM10 also requires the use and application of building materials which respects the materials of existing, adjoining/neighbouring buildings and the local area generally and incorporates a high standard of landscaping. This is supported by Paragraph 17 of the NPPF which seeks to ensure a high quality of design and Paragraph 53 of the NPPF which seeks to avoid the inappropriate development of residential gardens.
- 8.7. The proposed site forms the side garden of the host dwelling which is wider at the front than at the rear forming a wedge shape. It is constrained by the host dwelling and the northern boundary and is far narrower than the established plots within the cul-de-sac. The proposed independent development on this plot would, for this very reason, appear cramped and contrived and it is not considered that the proposed detached dwelling could be provided on the site whilst respecting the layout, design and scale of the existing dwellings in the street scene.
- 8.8. When viewed from the entrance of the cul-de-sac, the front elevation would stand proud of the front elevation of the host dwelling at first floor level, although it would be in line with the front single storey extension. The proposal would there be fairly prominent in long views. It would then become apparent when moving closer to the

site that the proposal would be out of character with the uniformity of the dwellings on the south side of the road. Whilst there is some variation in the cul-de-sac due to the properties to the north and west of the site, it is considered that the dwelling would appear incongruous and uncharacteristic when viewed in its immediate context.

- 8.9. Notwithstanding the above assessment, although the proposal is of a modern design, and would be built and finished with traditional materials which would be in keeping with the surroundings. Landscaping has been incorporated into the scheme with domestic scale planting which would help to assimilate the building within its setting and in this regard the proposal complies with some elements of Policy DM10.
- 8.10. On balance, it is considered that the proposed dwelling would have an overall detrimental impact on the character and visual appearance of the street scene. Although the materials and finishes would be in keeping, the development itself would have a cramped and contrived appearance and would neither complement or enhance the prevailing character of the locality. The proposal is therefore contrary to Policy DM10 (c) of the SADMP.

#### Impact upon neighbouring residential amenity

- 8.11. Policy DM10 of the SADMP states that new development should not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters such as lighting, air quality, noise, vibration and visual intrusion.
- 8.12. The previous reason for refusal was partly concerned with the impact that the proposed dwelling would have on the adjacent dwellings with regard to being overbearing and poorly laid out. The assessment particularly referred to the impact on no 14, the front rooms of which face across the private driveway (shared by no 14 and no 16) onto the eastern boundary of the application site which is defined by a 3m high evergreen privet hedge.
- 8.13. To address this concern, the proposed dwelling has been moved away from the boundary resulting in the side wall of the proposed dwelling approximately 2.5m from the boundary and approximately 6.5m from the front elevation of no. 14. The ridge height and hipped roof-form remain the same, with the eaves height at 2.8m of a similar height to the boundary hedge. The submitted plans show that the 25 degree light line is not breached.
- 8.14. There is a high level window proposed on the east side wall of the new dwelling. This faces onto the side access of the plot and the existing 3m high evergreen hedge and would not result in loss of privacy by way of overlooking into the front facing rooms of no 14.
- 8.15. On balance, due to the improved separation distance, the orientation of the properties and the site context, it is not considered that the proposed dwelling would result in any significant loss of daylight or sunlight or have any significant overbearing impact on the amenity of neighbouring residential occupiers. The proposal therefore complies with DM10 of the SADMP.

### Impact upon Highway Safety

- 8.16. Policies DM17 and DM18 of the SADMP concern highway design and vehicle parking standards. These require new developments to be in accordance with the highway design standards set out in the most up to date guidance produced by the Highways Authority and that an appropriate level of parking provision should be provided.
- 8.17. No objections have been raised from a highway safety view point. However concerns have been raised by some neighbours with regard to potential access difficulties. In relation to off street parking provision, the submitted plan illustrates that both the existing and proposed dwellings provide off road parking spaces. Whilst the provision of one new space would be acceptable, given the constrained nature of the site, it would not be possible to provide a turning area within the front garden area. Therefore vehicles would need to either access the parking space through reversing or if accessing the site in a forward gear would need to reverse onto the highway. This situation is primarily the case in White House Close and therefore a dedicated turning area within the site cannot be insisted upon. The proposal therefore does not raise and highway safety concerns.

### Drainage

- 8.18. There have been no drainage issues raised with regard to this application. Should approval be forthcoming a standard informative would be placed on the permission.

## **9. Equality Implications**

- 9.1. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

## **Conclusion**

10. Although the previous reason for refusal has been partly addressed by the reduction of built form on the site and the relocation the proposed dwelling further away from the eastern boundary, there remain legitimate planning concerns regarding the proposal given the size and location of the site and the defined characteristics of the surrounding residential area. It is considered that the development proposed therefore results in an incongruous, uncomplimentary and

contrived form of development that would be detrimental to the character of the street scene and the surrounding area contrary to Policy DM10 of the SADMP.

**11. Recommendation**

11.1 **Refuse planning permission:** for the following reason:

11.2. **Reason**

1. The development as proposed would result in an incongruous, uncomplimentary, contrived form of development that would be detrimental to the character of the street scene by virtue of its design, siting and layout in relation to the size of the site and defined characteristics of the surrounding residential area, The proposal is therefore considered to be contrary to Policy DM10 Site Allocations and Development Management Policies DPD and the provisions of the National Planning Policy Framework Paragraphs 17 and 53.

11.3. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.

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Planning Committee 11 October 2016  
Report of the Chief Planning and Development Officer

Planning Ref: 15/01202/FUL  
Applicant: AKW Property Consultants  
Ward: Barlestone Nailstone and Osbaston

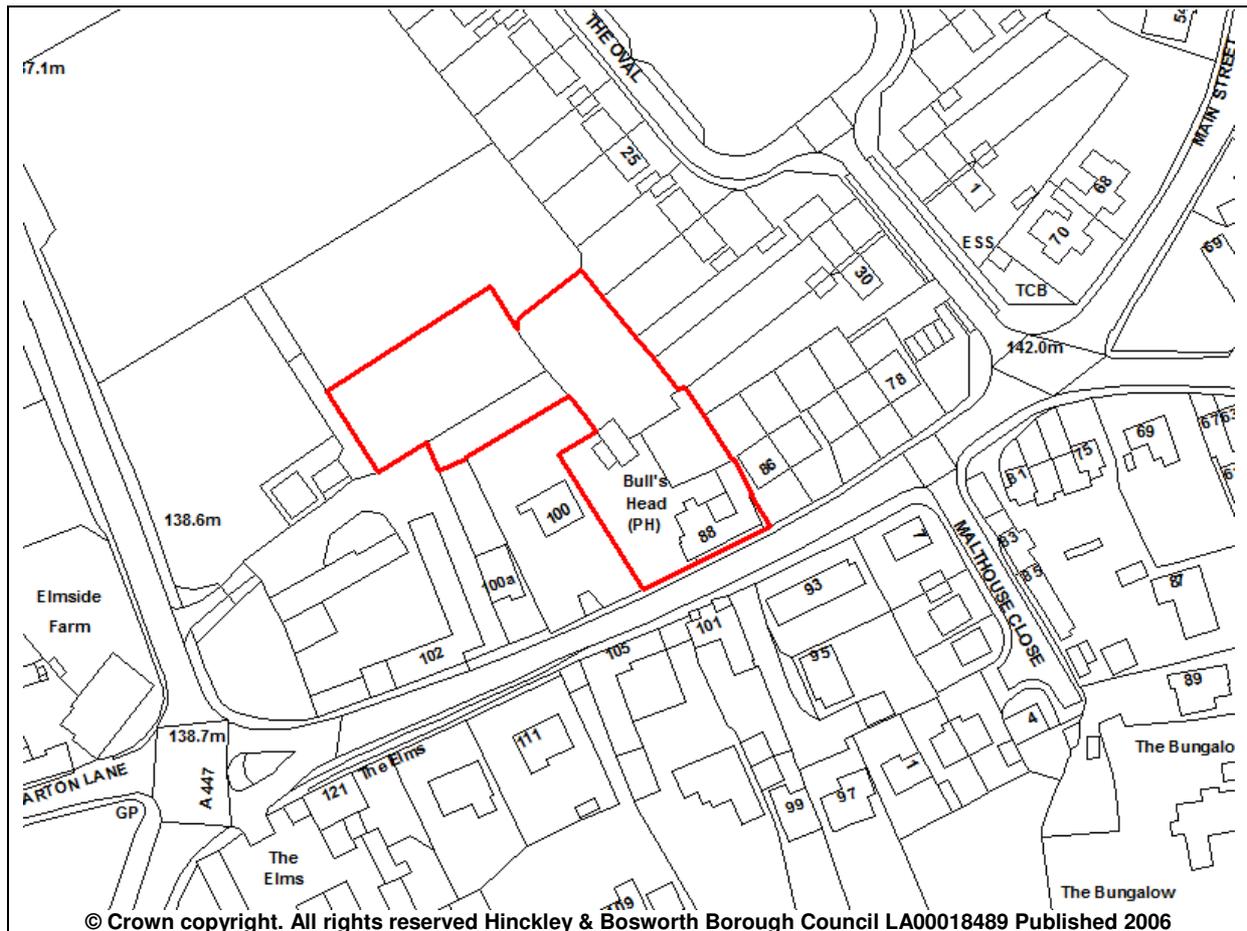


Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

Site: The Bulls Head 88 Main Street Nailstone

Proposal: Alterations to public house and erection 4 no dwellings



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- The prior completion of a S106 agreement to secure the following obligations
  - Highways – to deliver a traffic calming scheme
- Planning conditions outlined at the end of this report.

## 2. Planning Application Description

2.1. This is a full planning application is for alterations to the public house and the construction of 4 four bedroomed detached dwellings with associated parking, landscaping and amenity space.

2.2. Access to the site is to be taken from Main Street, utilising the existing access to the site.

### **3. Description of the Site and Surrounding Area**

- 3.1. The Bulls Head is an early 19<sup>th</sup> century public house, located on the north side of Main Street near the junction with the A447 Ibstock Road. To the rear of the pub is a car park, a detached single storey outbuilding and a grassed amenity area. The pub itself is modest in scale. To the east of the site are 1960's semi detached bungalows; to the west the neighbouring property is a modern detached bungalow. To the north of the site the remainder of the application site comprises a manege and a grassed paddock.
- 3.2. The public house and car park is within the Nailstone Conservation Area whilst the remainder of the site lies outside. The entire site is located within the settlement boundary of Nailstone which was amended following the adoption of the Site Allocations and Development Management Policies Development Plan Document (SADMP) in July 2016.
- 3.3. Access to the site is via the existing pub car park access.

### **4. Relevant Planning History**

13/00030/PP	Demolition of existing public house and erection of three detached dwellings	Dismissed	28.02.2014
13/00458/FUL	Demolition of existing public house and erection of three detached dwellings	Refused	20.09.2013
78/01231/4M	Extensions and alterations to the bulls head inn	Permitted	22.08.1978

### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. Five letters of objection were received which make the following comments:
- 1) Houses are to be built on the greenbelt outside of the settlement boundary
  - 2) Poor access visibility
  - 3) Possible increase in on road parking
  - 4) Concern for children's safety when crossing the road
  - 5) Lack of village amenities
  - 6) Backland development
  - 7) A traffic census would be a good idea
  - 8) Loss of view and privacy from rear garden
  - 9) Garages at The Bulls Head have a preservation order – who gave permission for it to be demolished?
  - 10) Visibility splay is incorrectly drawn and does not comply with local/national guidelines
  - 11) No 100a isn't listed on the site plans (shown as no 102) even though it is directly affected by plots 3 and 4
  - 12) Site sections BB and CC incorrectly label 100a as a bungalow
  - 13) No consideration given to existing hedgerows/boundary walls
  - 14) Settlement boundary on existing site plan is incorrect; wording within Design and Access Statement is also misleading on this point
  - 15) Access to residential properties via a pub carpark is not common practice.

- 5.3. One letter was received commenting that it would be a shame to lose the pub as it is the only one remaining in the village. On the basis that the pub is retained and there is sufficient garden and car parking the proposed development is acceptable.
- 5.4. One letter of support was received which made the following comments:
- 1) Current entry and egress from the carpark is very wide, could consideration be made to putting in a small footpath parallel to parking space 7 and Main Street to ensure cars will not cut the corner of parking space 7 and allow maximum visibility.

## **6. Consultation**

- 6.1. No objection, some subject to conditions have been received from:
- Leicestershire County Council (Highways)  
Severn Trent Water Limited  
HBBC Waste Services  
HBBC Environmental Services (Pollution)  
Leicestershire County Council (Archaeology)  
HBBC Environmental Health (Drainage)
- 6.2. Concerns have been raised by the HBBC Commercial Environmental Health Officer regarding the pedestrian and public house visitors' safety from the access to the dwellings through the car park of the Bulls Head.
- 6.3. Comments were received from the HBBC Section 106 Officer and from HBBC's Strategic Housing and Enabling Officer. However, these comments were submitted prior to amendments to national planning guidance which means that infrastructure contributions should not be sought on schemes of this scale.

## **7. Policy**

- 7.1. Core Strategy (2009)
- Policy 12: Rural Villages
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM10: Development and Design
  - Policy DM11: Protecting and Enhancing the Historic Environment
  - Policy DM12: Heritage Assets
  - Policy DM13: Preserving the Borough's Archaeology
  - Policy DM17: Highways and Transportation
  - Policy DM18: Vehicle Parking Standards
  - Policy DM25: Community Facilities
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
  - Planning Practice Guidance (PPG)
  - Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990
- 7.4. Other guidance
- Nailstone Conservation Area Appraisal and Management Plan (2015)

## **8. Appraisal**

### **8.1. Key Issues**

Assessment against strategic planning policies  
Impact upon the character of the area  
Impact upon neighbouring residential amenity  
Impact upon the highway  
Drainage

#### Assessment against strategic planning policies

- 8.2. Paragraph 11-13 of the National Planning Policy Framework (NPPF) states that the development plan is the starting point for decision taking. The NPPF is a material consideration in determining applications. The development plan in this instance consists of the Core Strategy (2009) and the Site Allocations and Development Management Policies Development Plan Document (SADMP).
- 8.3. Policy DM1 of the SADMP sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay unless material considerations indicate otherwise.
- 8.4. Nailstone is identified as a Rural Village within Policy 12 of the Core Strategy. The focus of such settlements is to support the existing services within these villages by supporting housing development within settlement boundaries that provides a mix of housing types and tenures as detailed in Policy 15 and 16. The application site is located within the settlement boundary of Nailstone as defined within the SADMP, as such the site is considered to be situated within a sustainable location.
- 8.5. Policy 12 of the Core Strategy seeks to allocate land for the development of a minimum of 20 new homes in Nailstone. The site is allocated within the SADMP for residential development up to 4 dwellings (allocation reference NAI09). This carries significant weight in the assessment of the application. Policy SA1 of the SADMP seeks to safeguard allocated sites for the same land uses, in this case this is safeguarding for residential use.
- 8.6. This application proposes to refurbish and retain The Bulls Head public house. Policy DM25 of the SADMP and the wider overarching policy within the NPPF supports the retention of community facilities in villages such as public houses and in order to stem their loss, they have been designated as community facilities within the SADMP. The public house is allocated as a community facility in the SADMP and this site would be retained as a result of the proposed development.
- 8.7. Given the above policy context, the application site is considered to be in a sustainable location and the refurbishment and retention of the public house and new residential development is acceptable in principle subject to all other planning matters being appropriately addressed.

#### Impact upon the character of the area

- 8.8. Policy DM10 of the SADMP requires development to complement and enhance the character of the surrounding area. Paragraph 56 of the NPPF states that good design is a key aspect of sustainable development and is indivisible from good planning and should contribute positively to making places better for people.
- 8.9. Policy DM11 of the SADMP requires development proposals which have the potential to affect a heritage asset or its setting to demonstrate an understanding of the significance of the asset and its setting; the impact of the proposal on the asset

including measures to minimise or avoid these impacts and how the benefits of the proposal will outweigh any harm caused and consider any impact on archaeology in line with Policy DM13. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that, when determining applications for development which affects any buildings or other land in a conservation area, a local planning authority shall pay special attention to the desirability of preserving or enhancing the character and appearance of that area.

- 8.10. Policy DM12 of the SADMP provides that development proposals should ensure the significance of a conservation area is preserved and enhanced through the consideration and inclusion of important features including appropriate boundary treatments which reflect the local style and materials which are characteristic of the conservation area.
- 8.11. Policy DM13 of the SADMP requires that where a proposal has the potential to impact a site of archaeological interest, developers to set out in their application an appropriate desk based assessment and, where applicable, results of a field evaluation detailing the significance of any affected asset.
- 8.12. The Leicestershire and Rutland Historic Environment Record (HER) notes that the Bulls Head and associated outbuildings appear on early Ordnance Survey maps of the 19<sup>th</sup> century. The Bulls Head is constructed from red brick in an unusual bond, it features a clay tiled roof, eyebrow dormer windows, gable end stacks and metal rise and fall gutter brackets. These architectural characteristics indicate that the building was constructed as part of the Gopsall Estate. The building is therefore considered to be a heritage asset in its own right, of local, if not regional significance which makes a positive contribution to the special character and appearance, and thus significance of the Nailstone Conservation Area.
- 8.13. With regard to the proposed alterations to the Bulls Head itself, the Conservation Officer considers that the proposal to remove the more modern and uncomplimentary additions to the pub accompanied with internal and external refurbishments will restore some of the building's local interest and enhance the character of the conservation area. A condition will be imposed to require a photographic record of the building prior to the works commencing should be undertaken. Further details of the external finishes to the Bulls Head as part of the works will also be conditioned.
- 8.14. The proposed development is located off one of the main roads into Nailstone and is characterised by traditional properties located on the back edge of the highway, with more modern properties set further back, resulting in no definitive building line. Traditional properties incorporate eyebrow dormers above first floor windows, a feature which has been replicated on some modern infill developments.
- 8.15. The proposed plans for the residential development incorporate 'Eyelid' roof upstands over the principal first floor windows, chimney stacks, projecting front porches and corbelled brickwork to the apex of the gable walls to reflect the local vernacular style.
- 8.16. The Conservation Officer considers that the design, form and materials of the proposed new dwellings reflect the local vernacular and are appropriate for a site located within the setting of the conservation area and preserve its special character.
- 8.17. All boundary fences are to be stained close boarded timber. A condition will be imposed to require the submission of a detailed hard and soft landscaping scheme to be approved by the Local Planning Authority.

- 8.18. Given the above, it is considered that the site has the potential to accommodate a high quality and sustainable residential development to take account of the site characteristics and the character of the local area in accordance with Policy DM1, DM10, DM11 and DM12 of the SADMP. In making the above assessment, special attention has been had to the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impact upon neighbouring residential amenity

- 8.19. Policy DM10 of the SADMP seeks to ensure that development does not adversely affect the privacy or amenity of neighbouring properties.
- 8.20. To the west of the site, No 100 Main Street is a detached bungalow set back from the highway within a generous plot. There is mature planting to the front and eastern boundaries which adjoins the application site; the closest section of the development to this property will be the parking spaces to serve the public house. The front elevations to plots 3 and 4 will face the rear boundary of 100 Main Street; however separation distances and screening are considered adequate to avoid any adverse impact on neighbouring amenity.
- 8.21. To the east of the site No 86 is a semi detached bungalow, there are no windows or openings on the western elevation facing the site. The rear garden to no 86 will be adjacent to the pub garden. This is similar to the current relationship and it is not considered that there will be any additional significant adverse impact on the residential amenity of this property as a result of this proposal.
- 8.22. Windows are proposed in the east facing elevations to plots 1 and 2. Separation distances to neighbouring properties located on The Oval, which share a rear boundary with the application site, would be around 25 metres. This is considered adequate to avoid any significant overlooking of neighbouring gardens. Separation distances with the properties to the west are similarly considered adequate. All windows to the gable walls of the proposed new dwellings which face onto neighbouring properties would be obscurely glazed.
- 8.23. Policy DM10 provides that development will be permitted providing that the amenity of the occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site. Plot 1 would be the closest property to the Bulls Head, sharing a boundary with the public house garden.
- 8.24. A dense landscaped barrier would be provided between the pub garden and Plot 1. A timber fence will also reduce sound levels between the pub garden and Plot 1. A landscaping scheme for the entire site, to be agreed by the Local Planning Authority, will be secured by condition. No objections to the proposed development have been received from the Environmental Health Officer.
- 8.25. Taking the above context into account, it is considered that the development will be in accordance with Policy DM10 of the SADMP with regard to impacts on neighbouring residential amenity and the amenity of occupiers of the proposed development.

Impact upon Highway Safety

- 8.26. Policies DM17 and DM18 of the SADMP require adequate access and off-street vehicle parking facilities to be provided to serve developments.
- 8.27. Vehicular and pedestrian access to the public house and new dwellings would be created from Main Street. Leicestershire County Council (Highways) considers that a traffic calming scheme is required in accordance with drawing 439-15-13 with the costs to be met by the applicant. This will be secured through a S106 agreement.

The traffic calming scheme would consist of the provision of speed cushions which would assist in reducing speeds on the approach to the site access from the west.

- 8.28. The Local Highway Authority is of the view that the provision of an additional four dwellings is unlikely to lead to any significant intensification of vehicles utilising this existing access, nor will the additional trips have a material impact on the capacity of the local road network. Given the above, the Local Highway Authority considers that the residual cumulative impacts of the development can be mitigated and are not considered severe in accordance with paragraph 32 of the NPPF.
- 8.29. 19 parking spaces are to be provided to serve the public house and each proposed dwelling would benefit from two parking spaces and a garage.
- 8.30. The appropriateness of access to the residential properties being provided through the pub car park has been raised by an objector to the scheme. However, neither Leicestershire County Council (Highways) nor the Environmental Health Officer has any objection to the arrangement submitted subject to the imposition of planning conditions. Given this context, the scheme is considered to be in accordance with Policies DM17 and DM18.

#### Other Matters

- 8.31. Concerns were raised that this land is Green Belt and lies outside of the settlement boundary. These observations are not correct as there is no Green Belt within the Borough and the whole site is located within the settlement boundary for Nailstone in the recently adopted. The section to the rear of the site (manege and paddock) did lie outside the settlement boundary when the application was originally submitted.
- 8.32. Concerns have been raised that the garage at The Bulls Head had a preservation order upon it and the objector has queried who gave permission for it to be demolished. The building in question was however demolished prior to the adoption of the Nailstone Conservation Area boundary and therefore was not subject to any designation at the time of demolition.
- 8.33. 100a Main Street is incorrectly labelled on the plans at 102 Main Street. This point is noted. However this property is clearly shown on the plans (albeit incorrectly numbered) and the impact on it has been assessed as part of the planning process as detailed above.

### **9. Equality Implications**

- 9.1. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

- 9.2 There are no known equality implications arising directly from this development.

## 10. Conclusion

- 10.1. Overall, it is considered that this proposal will preserve and enhance the special character, and thus significance of the conservation area. The retention of the pub; which is a community facility as defined within the SADMP will contribute to the social well being of the village, and the provision of four new dwellings is in line with the allocation within the SADMP. The proposals accords with Policy 12 of the Core Strategy and Policies DM1, DM10, DM11, DM12, DM13, DM17, DM18, DM25 of the SADMP.

## 11. Recommendation

- 11.1. **Grant planning permission** subject to:

- The prior completion of a S106 agreement to secure the following obligations:
  - Highways – to deliver a traffic calming scheme
- Planning conditions outlined at the end of this report.

### 11.2. Conditions and Reasons

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

**Reason:** To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Proposed House Type (Plot 1) Plans and Elevations Drg No 439-15-09  
Proposed House Type (Plot 2) Plans and Elevations Drg No 439-15-10  
Proposed House Types (Plot's 3 and 4) Plans and Elevations Drg No 439-15-11

Received by the Local Planning Authority on 16 November 2015.

Proposed Plans and Elevations No 439-15-07A  
Proposed Site Sections Drg No 439-15-08A  
Received by the Local Planning Authority on 28 September 2016.

Proposed Site Plan Drg No 439-15-06D  
Received by the Local Planning Authority on 29 September 2016.

**Reason:** To ensure a satisfactory appearance and impact of the development and to accord with Policies DM1, DM10 and DM12 of the Site Allocations and Development Management Development Plan Document (2016).

3. Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the dwellings and for the renovation of the Bulls Head public house 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.

**Reason:** To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM10 and Policy DM12 of the Site Allocations and Development Management Policies Development Plan Document.

4. No development shall commence on site until such time as the existing and proposed ground levels for the site, and proposed finished floor levels have been submitted in writing to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved proposed ground levels and finished floor levels.

**Reason:** To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

5. No development shall commence until there has been submitted to and approved in writing by the Local Planning Authority, a scheme of hard and soft landscaping works for the site. All hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of a similar size and species.

**Reason:** To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

6. All parking details of the proposed development shall comply with the design standards of Leicestershire County Council as contained within its current design standards document.

**Reason:** To prevent unacceptable on street parking in the vicinity of the development to the detriment of highways safety and to ensure compliance with Policies DM17 and DM18 of the Site Allocations and Development Management Development Plan Document.

7. The development hereby permitted shall not commence until drainage plans for the disposal of surface water, incorporating sustainable drainage principles (SuDS) and foul sewage have been submitted in writing to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

**Reason:** To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating and exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

8. No development shall commence until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted in writing to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary.

**Reason:** In the interests of protecting the visual amenity of the area, in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

9. No demolition/development shall commence until a phased programme of historic building recording (Level 2) and archaeological investigation, informed by an initial phase of exploratory trial trenching, has been detailed within Written Schemes of Investigation, submitted to and approved by the Local Planning Authority in writing. The scheme shall include an assessment of significance and research questions; and:

- The programme and methodology of site investigation and recording (including the initial trial trenching, assessment of results and preparation of an appropriate mitigation scheme)
- The programme for post-investigation assessment
- Provision to be made for analysis of the site investigation and recording
- Provision to be made for publication and dissemination of the analysis and records of the site investigation
- Provision to be made for archive deposition of the analysis and records of the site investigation
- Nomination of a competent person or persons/organisation to undertake the works set out within the Written Schemes of Investigation

**Reason:** To ensure satisfactory historic building survey and archaeological investigation to record and advance understanding of the significance of the affected resource prior to its loss and to accord with Policies DM11 and DM12 of the Site Allocations and Development Management Development Plan Document.

10. No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 9.

**Reason:** To ensure satisfactory historic building survey and archaeological investigation to record and advance understanding of the significance of the affected resource prior to its loss and to accord with Policies DM11 and DM12 of the Site Allocations and Development Management Development Plan Document.

11. Prior to first use of the development hereby permitted, A Road Safety Audit Stage 1 shall be undertaken in accordance with DMRB HD 19/03 by a team independent of the design team.

**Reason:** In the interests of highway safety and to accord with Policies DM17 and Policy DM18 of the Site Allocations and Development Management Development Plan Document.

12. Prior to first use of the development hereby permitted, access shall be provided in accordance with Drawing 439-15-13. These shall be in accordance with the standards contained in the current County council design guide and shall thereafter be permanently so maintained. Nothing shall be allowed to grow above a height of 0.6 metres above ground level within the visibility splays.

**Reason:** To ensure that the development is provided with a satisfactory means of access and in the interests of general highway safety to accord with Policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

13. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Schemes of Investigation approved under condition (8) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

**Reason:** To ensure satisfactory historic building survey and archaeological investigation to record and advance understanding of the significance of the affected resource prior to its loss and to accord with Policies DM11 and DM12 of the Site Allocations and Development Management Development Plan Document.

14. There shall be no occupation of the fourth dwelling authorised to be constructed pursuant to the planning permission unless and until the works of alteration and refurbishment to the Bulls Head public house have been completed in accordance with plans reference 439-15-07A & 439-15-08A.

**Reason:** To secure the enhancement of the conservation area in accordance with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Management Plan.

### 11.3. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.
3. Where a soakaway is initially proposed, the suitability of the ground strata for infiltration should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. If the ground strata prove unsuitable for infiltration, alternative SuDS proposals will require the further approval of the LPA.
4. The Developer will be required to enter into an agreement with the Highway Authority under Section 278 of the Highways Act 1980 for works within the highway and detailed plans shall be submitted and approved in writing by the Highway Authority. The Section 278 Agreement must be signed and all fees paid and surety set in place before the highway works are commenced.
5. All works within the limits of the highway with regard to the access shall be carried out to the satisfaction of the Highways Manager (telephone 0116 3050001).



Planning Committee 11 October 2016  
Report of the Chief Planning and Development Officer

Planning Ref: 16/00693/FUL  
Applicant: Mrs Gina Harvey  
Ward: Barwell

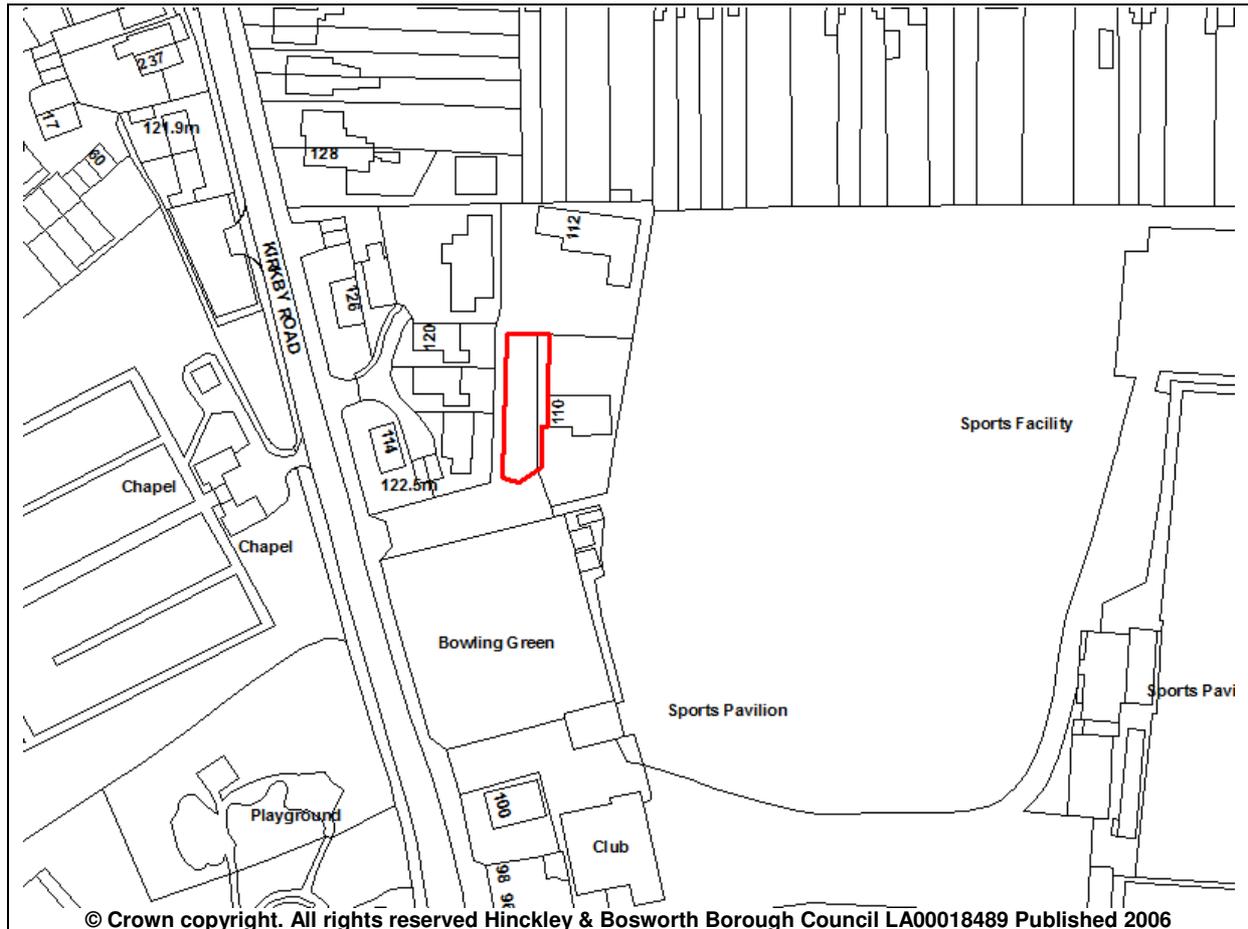


Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

Site: 110 Kirkby Road Barwell

Proposal: Erection of single storey dwelling (resubmitted scheme)



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

### 1.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

## 2. Planning Application Description

- 2.1. This application seeks full planning permission for the erection of a single storey detached dwelling on garden land adjacent to an existing dwelling, 110 Kirkby Road, Barwell. It is a re-submitted scheme following refusal of planning permission for a two storey dwelling within the site (reference 15/01336/FUL).

- 2.2. The proposed gable fronted bungalow would measure 6.4 metres in width x 14 metres in depth with an eaves height of 2.1 metres and a main ridge height of 5.4 metres. Proposed external materials include a mix of facing bricks and render, concrete interlocking roof tiles and uPVC window frames. An amenity area would be provided to the rear of the dwelling. Two parking spaces to serve the new dwelling would be provided on hardstanding to the front of the site.
- 2.3. An arboricultural survey has been submitted to support the application.

### **3. Description of the Site and Surrounding Area**

- 3.1. The application site, excluding the shared access, measures approximately 300 square metres and is located within the settlement boundary of Barwell within a predominantly residential area. It comprises part of the garden to 110 Kirkby Road (a two storey detached dwelling) and an adjacent plot of land enclosed by 1.8 metre high timber fencing. The adjacent plot is currently used for allotment purposes ancillary to the use of 110 Kirkby Road. To the west a vehicular accessway separates the application site from the rear gardens of three detached bungalows (Nos. 116, 118 and 120 Kirkby Road), to the north there is a dormer bungalow (No. 122) and a further detached bungalow (No. 112), to the south there is the existing vehicular access to 110 Kirkby Road and a bowling club/green beyond. There is an established Yew tree located towards the front of the application site which is protected by a Tree Preservation Order (ref. 92/00001/TPORD).

### **4. Relevant Planning History**

15/01336/FUL	Erection of one dwelling	Refused	04.03.2016
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### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. As a result of public consultation, responses have been received from five separate addresses objecting to the scheme on the following grounds:-
- 1) Overbearing impact on neighbouring properties due to height and proximity
  - 2) Loss of sunlight to neighbouring properties
  - 3) Loss of privacy to neighbouring properties due to high windows
  - 4) The ridge is higher than surrounding bungalows
  - 5) Inadequate parking provision
  - 6) Adverse impact on protected Yew tree
  - 7) Additional noise and nuisance particularly during construction
  - 8) Surface water ponding
  - 9) Potential removal of fence and encroachment on adjacent driveway
  - 10) Loss of property value.

### **6. Consultation**

- 6.1. No objections, some subject to standard advice, have been received from:-  
Leicestershire County Council (Highways)  
Arboricultural Officer  
Environmental Health (Drainage)  
Environmental Health (Pollution)
- 6.2. Barwell Parish Council support the application and request contributions towards nearby play and open space facilities.

## **7. Policy**

- 7.1. Earl Shilton and Barwell Area Action Plan (ESBAAP) DPD (2014)
- Relevant policies have been replaced by SADMP policies listed below.
- 7.2. Core Strategy (2009)
- Policy 3: Development in Barwell
  - Policy 19: Green Space and Play Provision
  - Policy 24: Sustainable Design and Technology
- 7.3. Site Allocations and Development Management Policies (SADMP) DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM3: Infrastructure and Delivery
  - Policy DM6: Enhancement of Biodiversity and Geological Interest
  - Policy DM10: Development and Design
  - Policy DM17: Highways and Transportation
  - Policy DM18: Vehicle Parking Standards
- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
  - Planning Practice Guidance (PPG)
  - Community Infrastructure Levy (CIL) Regulations (2010)

## **8. Appraisal**

- 8.1. Key Issues
- Assessment against strategic planning policies
  - Design and impact upon the character of the area
  - Impact on protected Yew tree
  - Impact upon neighbouring residential amenity
  - Impact upon highway safety
  - Infrastructure contributions
  - Other issues

### Assessment against strategic planning policies

- 8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning law (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraphs 12 and 13 of the NPPF state that the development plan is the starting point for decision making and that the NPPF is a material consideration in determining applications.
- 8.3. The development plan in this instance consists of the adopted Core Strategy (2009), the adopted Earl Shilton and Barwell Area Action Plan (ESBAAP) Development Plan Document (2014) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4. Policy DM1 of the adopted SADMP provides a presumption in favour of sustainable development. The adopted Core Strategy identifies Barwell and Earl Shilton as urban areas supporting Hinckley as the sub-regional centre. The application site is located within the settlement boundary of Barwell as defined in the ESBAAP and is located within a reasonable distance of a range of local services and facilities.

Policy 3 of the adopted Core Strategy supports development within the settlement boundary of Barwell to deliver a minimum of 45 new dwellings along with 2500 new dwellings within a mixed use Sustainable Urban Extension. The minimum housing allocation for Barwell has been met and exceeded through the grant of planning permissions on other sites. However, the proposal for one additional new dwelling within the urban settlement boundary would not have any adverse impact on the spatial vision for the settlement or the Borough. The proposal would therefore comply with the general strategic principles and Policy 3 of the adopted Core Strategy and would be acceptable in this case subject to all other material planning matters being adequately addressed.

Design and impact upon the character of the area

- 8.5. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.6. The surrounding area is characterised by a detached two storey dwelling set in a spacious plot and detached bungalows, including a dormer bungalow, set within a variety of plot sizes and shapes with no proper road frontage and served by shared private driveways.
- 8.7. The proposed single storey dwelling would be sited immediately adjacent to the side gable of 110 Kirkby Road and extend 14 metres along the side boundary with the adjacent vehicular access and would not be out of character with the density of the bungalow development to the west of the site. This surrounding development contains gable fronted properties and a dormer bungalow with a higher ridge than the other existing bungalows.
- 8.8. Notwithstanding that the scheme would result in the development of a restricted plot, the layout, scale and design of the scheme would be well integrated and complement the density and character of the surrounding area and would not result in any significant harm to the built environment. The layout would also provide a private amenity area of 43 square metres to the rear of the new dwelling to serve the future occupiers. The scheme would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact on protected Yew tree

- 8.9. Policy DM6 of the adopted SADMP seeks to conserve and enhance features of nature conservation value with on site features being retained, buffered and managed favourably to maintain their ecological value.
- 8.10. The existing Yew tree is located towards the front of the application site. It provides a significant contribution towards the visual amenity of the surrounding area and is therefore protected by a Tree Preservation Order (ref. 92/00001/TPORD).
- 8.11. The Council's Arboricultural Officer has carried out a site visit and assessed the potential impact of the proposed scheme on the protected Yew tree. As a result of the feedback from the Arboricultural Officer, the position of the proposed dwelling has been revised and is now 8.5 metres from the trunk. This revised position is considered appropriate and compatible with the Yew tree which is to be retained within the proposed layout. The radial crown spread is 6 metres from the trunk and results in sufficient window and building clearance to provide satisfactory residential amenity for the future occupiers.
- 8.12. The new parking area and drive surfaces; excavations for the laying of underground services beneath the tree canopy and the building construction process all have the

potential to cause root damage and soil compaction that would be detrimental to the health of the tree. It would therefore be reasonable to impose a condition requiring the submission of a tree compatible construction method and services routing details for prior approval to further control this aspect of the scheme. The removal of a number of lower branches of the tree (crown lifting) would also be necessary but would not have any significant adverse impacts on the visual amenity that the tree provides.

- 8.13. By virtue of the separation of the proposed single storey dwelling to the protected Yew tree the scheme would not be likely to result in any significant harm to its health and long term viability. Impacts from the provision of hard standing and any below ground services proposed within the root protection area could be controlled by a planning condition to require the submission of full details for prior approval. The proposal would therefore be in accordance with Policy DM6 of the adopted SADMP which seek to protect the natural environment and biodiversity.

Impact upon neighbouring residential amenity

- 8.14. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings. The NPPF in paragraph 17 seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.
- 8.15. Objections have been received on the grounds that the scheme would have adverse impacts on the amenities of neighbouring occupiers through overbearing and overshadowing impacts on neighbouring properties and gardens, loss of outlook, views and natural light and loss of privacy from overlooking from high level windows.
- 8.16. Numbers 114, 116, 118, 120 and 122 Kirkby Road are detached bungalows located to the west of the application site. The main rear elevation of No 118 has habitable room windows that face directly towards the proposal. The proposed dwelling would have a single storey ridge height of approximately 5.4 metres and extend across the rear of No. 118 with a separation distance of 11 metres. In addition, the roof of the proposed dwelling would slope away from the site boundary such that the 5.4 metre high ridge would be approximately 14 metres from the rear elevation and 7 metres from the rear garden boundary. By virtue of the scale and separation distance, the proposal would not result in any adverse overbearing or overshadowing impacts on the occupiers of No. 118. There are no habitable room windows to Nos. 114, 116, 120 or 122 that would look directly towards the proposed dwelling and by virtue of the separation distances the scheme would not result in any adverse overbearing or overshadowing impacts on the amenities of the occupiers of these bungalows.
- 8.17. 112 Kirkby Road is a detached bungalow located to the north of the application site and set towards the back of its plot, away from the proposed development. By virtue of the separation distance of approximately 20 metres from the nearest part of 112 (conservatory) to the rear elevation gable of the proposed single storey dwelling the scheme would not result in any adverse overbearing or overshadowing impacts on the occupiers of 112.
- 8.18. The proposed dwelling has only ground floor accommodation and no views would be available to any neighbouring gardens from the high level window detail proposed in the rear gable or side roof elevations. Therefore the scheme would not result in any loss of privacy to any neighbouring properties from overlooking. However, by virtue of the ridge height of 5.4 metres there may be potential to create an internal first floor within the structure at a later date. A condition to limit the development to ground floor accommodation only would be reasonable and

necessary in this case given the proximity of the windows to neighbouring gardens to protect the future privacy of neighbouring occupiers.

- 8.19. The host dwelling No. 110 would retain adequate private amenity space. By virtue of the single storey scale of the proposal and separation distance the scheme would not result in any significant adverse impacts on the amenity of the occupiers of No. 110.
- 8.20. Noise and disturbance during the construction phase would be temporary in nature and therefore would not have any long term impacts on the amenities of the occupiers of any neighbouring residential properties.
- 8.21. By virtue of its siting, scale and separation distances, the scheme would not result in any significant adverse impacts on the amenities of any neighbouring properties and would therefore be in accordance with Policy DM10 of the adopted SADMP in respect of residential amenity.

#### Impact upon highway safety

- 8.22. Policy DM17 of the adopted SADMP supports development that makes the best use of and/or enhances existing public transport services, ensures convenient and safe access for walking and cycling to services and would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate/justified level of parking provision. Paragraph 32 of the NPPF states that a safe and suitable access to sites should be achieved and that development should only be refused on transport grounds where the residual cumulative impacts of development are severe
- 8.23. Objections have been received that the proposal would have inadequate off-street parking provision.
- 8.24. The scheme includes the provision of two spaces to serve the proposed two bedroom bungalow which would be in accordance with adopted highway authority standards. Adequate hard standing for parking for at least four vehicles would be retained to serve the host dwelling (110). The existing shared access has adequate width and visibility onto Kirkby Road to serve an additional dwelling.
- 8.25. In light of the above, the scheme would not result in any significant adverse impacts on highway safety and would therefore be in accordance with Policies DM17 and DM18 of the adopted SADMP.

#### Infrastructure contributions

- 8.26. Barwell Parish Council request infrastructure contributions towards play and open space facilities at Kirkby Road Recreation Ground in Barwell.
- 8.27. Following amendments to national planning guidance, infrastructure contributions should no longer be sought on schemes of this scale. Therefore notwithstanding the provisions of Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution towards public play and open space has been pursued in this case.

#### Other issues

- 8.28. By virtue of the constrained nature of the site and proximity to the protected Yew tree, a condition to remove permitted development rights would be reasonable and necessary in this case to safeguard the character and appearance of the area and in the interests of residential and visual amenity.
- 8.29. Surface water drainage from the development would be subject to building regulations approval and by virtue of the scale of development the scheme would

not result in any significant flooding to the wider area. No objections have been received from Environmental Health (Drainage).

- 8.30. The potential removal (temporary or otherwise) of existing boundary fencing and encroachment onto the adjacent driveway during the construction phase is a civil matter between respective land owners and not a material planning consideration. The provisions of the Party Wall etc. Act could be referred to by way of an informative note to the applicant should the application be approved.
- 8.31. Loss of value to neighbouring property is not a material planning consideration.

## **9. Equality Implications**

- 9.1. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

- 9.3. There are no known equality implications arising directly from this development.

## **10. Conclusion**

- 10.1. The proposal complies with the general strategic principles of the development plan and would not result in any significant adverse impacts on the built or natural environment.

- 10.2. By virtue of the proposed layout, scale, design, and subject to the use of appropriate external materials to ensure a satisfactory appearance, the scheme would complement the density and character of the surrounding area and would not result in any significant adverse impacts on the amenities of any neighbouring properties or highway safety. Conditions can be imposed to ensure continued protection of the Yew tree to preserve the contribution that it provides to visual amenity. The scheme would therefore be in accordance with Policy 3 of the adopted Core Strategy, Policies DM1, DM6, DM10, DM17 and DM18 of the adopted SADMP and is therefore recommended for approval subject to conditions.

## **11. Recommendation**

- 11.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

- 11.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

### **11.3. Conditions and Reasons**

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

**Reason:** To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:- Site Location Plan Drawing No. 7174P-04 received by the local planning authority on 28 July 2016 and Proposed Site/Floor Plan and Elevations Drawing No. 7174P-05 Revision P2 received by the local planning authority on 11 August 2016.

**Reason:** To ensure a satisfactory appearance and impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. No development shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the single storey dwelling hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials

**Reason:** To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The proposed ground levels of the site and proposed finished ground floor level of the single storey dwelling hereby permitted shall be the same as those of the adjacent dwelling, 110 Kirkby Road, Barwell as submitted on the approved plans.

**Reason:** To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. Before any development commences on the site, including site works of any description, a Tree Protection Plan prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the local planning authority. The plan shall include protective barriers to form a secure construction exclusion zone in accordance with BS 5837:2012 (Tree in relation to design, demolition and construction). Within the construction exclusion zone/protected areas there shall be no alteration to ground levels, no compaction of the soil, no stacking or storing of any machinery, equipment or materials. If any trenches for services are required within the fenced-off areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left un-severed. The development shall be implemented in accordance with the approved Tree Protection Plan.

**Reason:** To ensure that the existing Yew tree to be retained is adequately protected during and after construction in the interests of the visual amenities of the area and biodiversity to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 109 of the National Planning Policy Framework (2012).

6. No works or development shall take place within the site until a site specific no-dig access drive construction method statement has been submitted to and approved in writing by the local planning authority that demonstrates that no-dig surfacing is fit for purpose. The development shall then be implemented in accordance with the approved scheme.

**Reason:** To ensure that the protected trees are not damaged during construction and that soil bulk density will not be increased or be detrimental to long-term tree health or the visual amenity and biodiversity value of the trees in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 109 of the National Planning Policy Framework (2012).

7. No development shall commence on site until a detailed scheme of pruning works to be carried out in accordance with BS3998:2010 (Tree Work - Recommendations) have been submitted to and agreed in writing by the local planning authority. The development shall then be carried out in accordance with the agreed scheme.

**Reason:** In the interests of the health, safety and visual amenity and biodiversity value of the protected trees to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 109 of the National Planning Policy Framework (2012).

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, development within Schedule 2, Part 1, Classes A, B, C, E and F shall not be carried out unless planning permission for such development has first been granted by the local planning authority.

**Reason:** To safeguard the character and appearance of the area and in the interests of residential and visual amenity to accord with Policies DM10 and DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. No internal floors or accommodation shall be created above ground level within the single storey dwelling hereby permitted at any time.

**Reason:** To safeguard the privacy and amenity of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. Before first occupation of the single storey dwelling hereby permitted, the two vehicle parking spaces shall be constructed and surfaced in accordance with the details approved under condition 6 of this planning permission and once so provided shall be maintained for parking at all times thereafter.

**Reason:** To ensure that satisfactory off-street parking is provided to serve the dwelling hereby permitted in the interests of highway safety to accord with Policy DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

#### 11.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. Application forms to discharge conditions and further information can be found on the planning portal website [www.planningportal.gov.uk](http://www.planningportal.gov.uk).
3. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
4. Access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet.
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.

Planning Committee 11 October 2016  
Report of the Chief Planning and Development Officer



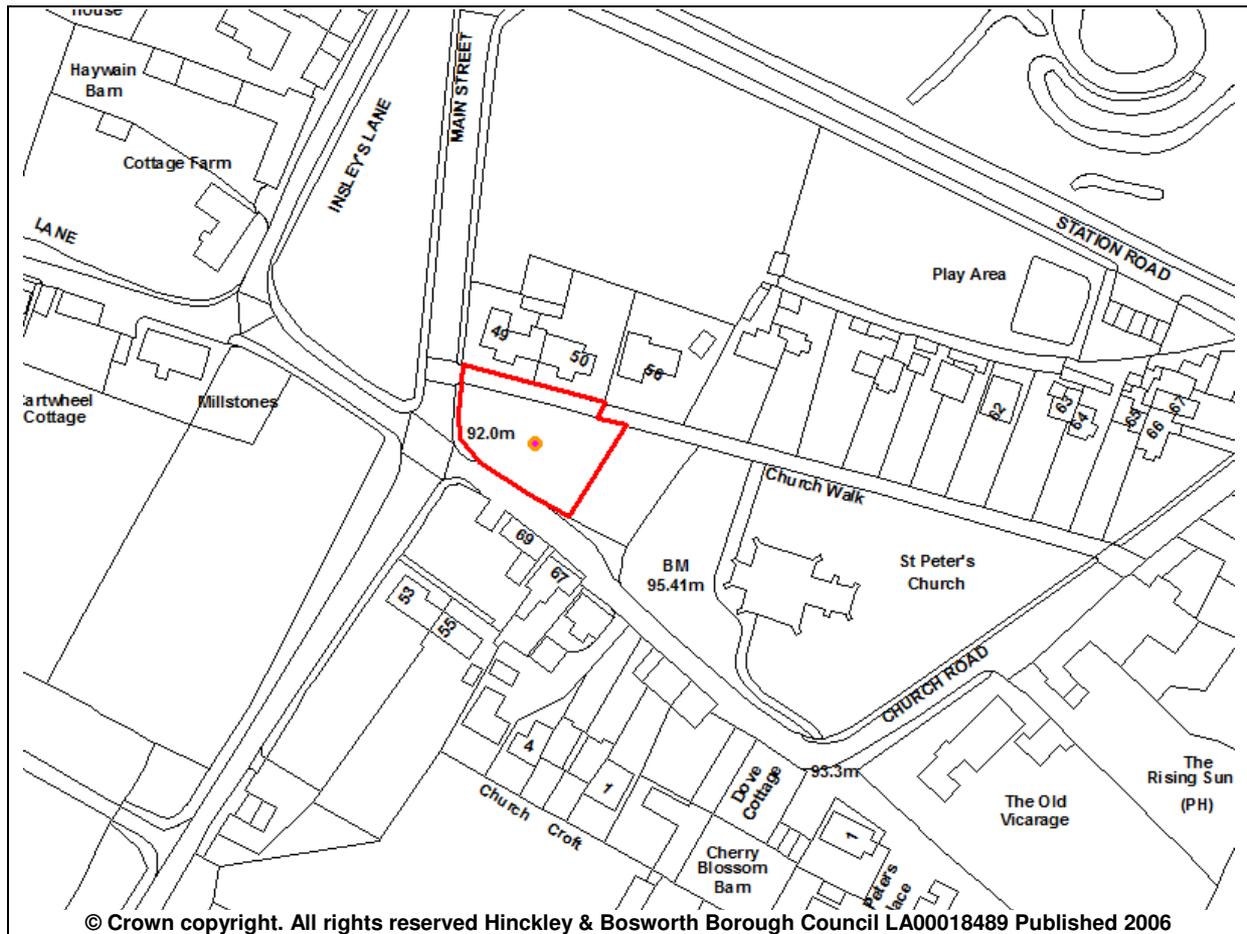
Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

Planning Ref: 16/00654/COU  
Applicant: Shackerstone Parish Council  
Ward: Cadeby Carlton M Bosworth & Shackerstone

Site: Land North West Of St Peters C Of E Parish  
Church Church Road Shackerstone

Proposal: Change of use from open land to a burial ground



## 1. Recommendations

- 1.1. Grant planning permission subject to:
- Planning conditions outlined at the end of this report.

## 2. Planning Application Description

- 2.1. This application seeks planning permission for a change of use from open land to a burial ground. This is to allow an extension to the adjacent burial ground.

## 3. Description of the Site and Surrounding Area

- 3.1. The application site is located within the settlement boundary and conservation area of Shackerstone. Shackerstone is a rural hamlet with primarily low density, residential development and open spaces surrounding the application site. To the

north of the site are dwellings fronting onto Church Walk which adjoins the northern boundary of the site and is a private road adjoining Main Street and Church Road with a public Right of Way over it. To the east, the site adjoins an existing burial ground operated by the Parish Council which adjoins St Peter's Church and cemetery. To the south, dwellings front onto the southern side of Church Road which separates the site. To the west is the village green, separated by Main Street.

- 3.2. The application site forms a rectangular parcel of land. The land is undeveloped with no formal use although is being maintained with a manicured garden appearance. The northern boundary of the site, adjoining Church Walk is open. The southern and western boundaries comprise a low red brick wall with hedgerow above and the eastern boundary comprises a low red brick wall. There are several trees in and surrounding the site with two prominent apple trees in the centre of the site.

#### **4. Relevant Planning History**

None relevant.

#### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.

- 5.2. Five representations of objection have been received in response to the above publicity. The representations are summarised below:

- 1) The Parish Council has failed to adequately maintain the existing cemetery
- 2) A lack of pre-application consultation was undertaken by the Parish Council
- 3) The site is marked as an area of key space in the Shackerstone Conservation Area appraisal
- 4) The space provides attractive views towards the church
- 5) The change of use will destroy the character of the village and conservation area
- 6) There are infrequent local burials and the spaces would be used by people due to a shortage elsewhere
- 7) The land has been restored and maintained from a derelict site and is now attractive
- 8) Disturbance of users of the cemetery on the dwellings fronting Church Walk
- 9) There is no right for vehicles to use Church Walk
- 10) New burial sites have traditionally been located away from populated areas
- 11) The Hydrogeological Risk Assessment does not include environmental considerations
- 12) Car parking issues would be exacerbated
- 13) Vehicular access will not be granted for use along Church Walk
- 14) Groundwater pollution.

#### **6. Consultation**

- 6.1. No objection, some subject to conditions, has been received from the following:

Ashby Canal Association  
Environmental Health (Pollution)  
Environmental Health (Drainage)  
Leicestershire County Council (Highways)

- 6.2. Conservation Officer – limited harm to the character and appearance of the conservation area that would be considered 'less than substantial' and should be weighed against the wider benefits.

- 6.3. No comments have been received from the Environment Agency.
- 6.4. Hinckley and Bosworth CPRE – object to the application for the following reasons:
- 1) Impact on residents from parking, funerals and visitors
  - 2) Loss of a well-maintained part of the conservation area which would destroy the character
  - 3) Allowing a new cemetery in the middle of a small community may set a precedent.

## **7. Policy**

### 7.1. Core Strategy (2009)

- Policy 13: Rural Hamlets

### 7.2. Site Allocations and Development Management Policies DPD (2016)

- DM1: Presumption in Favour of Sustainable Development
- DM7: Preventing Pollution and Flooding
- DM10: Development and Design
- DM11: Protecting and Enhancing the Historic Environment
- DM12: Heritage Assets

### 7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)
- Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

### 7.4. Other relevant guidance

- Shackerstone Conservation Area Appraisal and Management Plan (2009)

## **8. Appraisal**

### 8.1. Key Issues

- Assessment against strategic planning policies
- Impact upon the character of the area and heritage assets
- Impact upon neighbouring residential amenity
- Impact upon the highway
- Impact upon pollution
- Other matters

#### Assessment against strategic planning policies

8.2. Policy 13 of the Core Strategy relates to development in Rural Hamlets. However, this policy is silent on the matter of the provision of burial grounds. There are no policies within the Development Plan that seek to guide the location for the provision of additional burial grounds.

8.3. Policy DM1 of the SADMP states that where there are no policies relevant to the application then the Borough Council will grant planning permission unless material considerations indicate otherwise, taking into account whether:

- Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
  - Specific policies in that Framework indicate that development should be restricted.
- 8.4. Paragraph 70 of the NPPF seeks to ensure that to deliver social, recreational and cultural facilities and services the community needs, decision should ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.
- 8.5. The application site is proposed to be used to provide additional burial grounds. The land immediately to the east of the application site is designated as open space as it comprises the existing burial ground run by the Parish Council and the cemetery associated with St Peter's church. The burial ground would extend the provision of burial grounds in the hamlet. The burial grounds' close proximity to the population to which it would serve would make it easy for visitors and give people the choice to be buried close to where they may have a local connection or near to other family members. The existing cemetery serving the church and burial ground operated by the Parish Council presents an integrated approach between the surrounding population and the community facility. The proposed change of use of the application site presents a suitable solution for the future provision of burial grounds.
- 8.6. The proposed change of use is considered to be acceptable in accordance with Policy DM1 of the SADMP and paragraph 70 of the NPPF, unless any material planning considerations, assessed below, are considered to demonstrably outweigh the benefits.

Impact upon the character of the area and heritage assets

- 8.7. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting, to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it possesses. Section 72 of the same act provides that, when determining applications for development which affects any buildings or other land in a conservation area, a local planning authority shall pay special attention to the desirability of preserving or enhancing the character and appearance of that area.
- 8.8. Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment and heritage assets. The proposed development is within the conservation area and is located in close proximity to the Grade II\* listed St Peter's church. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area.
- 8.9. The application site is a well-maintained area of green space with an open and verdant character. The site is identified as a key green space in the Shackerstone Conservation Area appraisal. The appraisal recognises the contribution the areas of green space make to the rural character.
- 8.10. The land is proposed as an extension to the existing adjacent cemetery to the east. The site is currently bounded by a hedge and 3 foot high brick wall to the southern and western boundaries and a similar wall along the eastern boundary resulting in open views across the site to St Peter's church from the entrance to Church Walk adjoining Main Street. The land is laid to lawn and includes a number of fine specimen trees.

- 8.11. A new 3 foot brick wall, to match the existing wall along the east boundary, is proposed along the northern boundary adjoining Church Walk. The low level of the proposed wall would maintain the visibility and openness of the land and ensure views across the site of St Peter's church tower remain unaltered. This would have no impact on the setting of the listed church building and thus cause no harm to its significance. The impact of the construction of the wall to the low height would have a negligible impact on the open character of the site.
- 8.12. The supporting statement notes that the existing trees would be retained and the land would remain of lawn until the burials take place. Retention of the trees is proposed to be secured through the imposition of a planning condition to prohibit burials within the root protection area.
- 8.13. The Parish Council has a burial ground policy which seeks to ensure the visual appearance and character of the burial grounds are not adversely impacted. The policy ensures the following:
- Plots are delineated with a minimum size of 4 foot by 8 foot;
  - Headstones are limited to 3 foot in height and 2 foot 6 inches wide with no kerb sets for ease of mowing and maintenance;
  - If the family wishes to erect a memorial or headstone, the clerk must first be notified and approve the design and wording;
  - There shall be no planting on the plots and the graves are to be levelled to the existing contour of the grass surrounding the grave and be re-turfed;
- 8.14. The visual impact of the change from lawn to burial plots in accordance with the burial ground rules set by the Parish Council, and as demonstrated by the existing cemetery extension adjacent, would be negligible and would retain the verdant and open character of the site. The Parish Council rules for the size of headstones shall also be imposed as a planning condition as these could be subject to variation. Additionally, permitted development rights for small ancillary buildings shall be removed in order to retain the undeveloped nature of the land.
- 8.15. There are 11 spaces remaining in the existing burial ground which would be used prior to using the proposed burial ground. Permission is being sought at this stage due to the opportunity to secure the land in conjunction with the liquidating of the Gopsall Estate by the Crown Estates. Burial rates have been and are expected to remain at an approximate rate of one burial per year. The use of the site for burials and the introduction of cemetery paraphernalia would be an elongated process aiding a sympathetic transition between the existing and proposed use.
- 8.16. The additional burial ground provision would result in additional funerals and visitors. There would be additional on-street car parking and vehicular traffic movements associated with funerals and visitors. However, there is expected to be approximately one burial per year and the disturbance associated with a funeral, or future visits to burial plots, is not considered to be significant or frequent enough to cause harm to the tranquil and peaceful character of the area.
- 8.17. Although the low brick wall and change of use to a burial ground would retain the open and verdant character of the site and views across the site, there would be enclosure of the site and introduction of paraphernalia which would cause some harm to the character of the conservation area. However, this harm is considered to be less than substantial and in accordance with Policy DM11 of the SADMP and paragraph 134 of the NPPF this harm should be weighted against the public benefits arising. Recent case law has established that the desirability of preserving the heritage asset when carrying out the balancing exercise, and that a finding of harm to a conservation area gives rise to a strong presumption against planning permission being granted unless considerable public benefits outweigh that harm.

- 8.18. The harm to the character and appearance of the conservation area would be negligible, as demonstrated by the character and appearance of the adjacent cemetery extension. The change of use would provide considerable public benefit through the provision of additional burial grounds within the hamlet. The burial ground's close proximity to the population to which it would serve would make it easy for visitors and give people the choice to be buried close to where they may have a local connection or near to other family members. The site presents a suitable solution for the future provision of burial grounds. It is considered that the benefit of securing the land for the use of the community is considerable and outweighs the harm caused by the introduction of the low brick wall and cemetery paraphernalia.
- 8.19. The proposal is also not considered to impact on the setting of the adjacent St Peters church. Therefore, it is considered that the proposal is in accordance with Policies DM10, DM11 and DM12. In making the above assessment, special attention has been had to the provisions of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impact upon neighbouring residential amenity

- 8.20. Policy DM10 of the SADMP seeks to ensure that development proposals do not harm the amenity of neighbouring residential properties.
- 8.21. The change of use of the open land would not result in physical development and therefore would not impact on the occupiers of neighbouring properties with regards to overbearing, overshadowing or overlooking. The change of use would result in an increase in the number of visitors to the site over time as the plots are used. Due to the nature of the reason for visiting a burial, it is not considered that visitors to the grounds would cause a level of disturbance that would have an adverse impact on the occupiers of surrounding dwellings. Funerals on the grounds would not cause undue noise or disturbance above the level associated with funerals on the existing, adjacent burial ground.
- 8.22. It is considered that the change of use would not have an adverse impact on neighbouring amenity in accordance with Policy DM10 of the SADMP.

Impact upon Highway Safety

- 8.23. Policy DM17 of the SADMP seeks to ensure that development proposals ensure convenient and safe access for walking to facilities and demonstrate that there is not a significant adverse impact upon highway safety.
- 8.24. The proposal would increase the capacity of the burial ground in addition to that provided by St Peter's Church and the adjacent burial ground operated by the Parish Council. The vehicular and pedestrian access would remain unchanged from the existing arrangements serving the Parish Council burial ground adjacent with an access gate to be provided between the two burial ground sites. A gate would be provided in the proposed brick wall on the northern boundary to allow pedestrian access from the Public Right of Way along Church Walk.
- 8.25. Burial rates and funerals are anticipated to continue at the existing rate of approximately one burial per year. These events are likely to generate additional vehicular traffic and car parking within the vicinity of the site. There is on-street car parking available in the vicinity of the site that could be used by those attending the events. Due to the expected frequency of these events it is not considered that the additional vehicular movements and on-street car parking would have a significant adverse impact on highway safety.

- 8.26. The proposed change of use would not have an adverse impact on highway safety and would retain safe and convenient pedestrian access to the site in accordance with Policy DM17 of the SADMP.

Impact on pollution

- 8.27. Policy DM7 of the SDAMP seeks to ensure that development does not have adverse impacts from pollution.
- 8.28. The applicant has submitted a Hydrogeological Risk Assessment with the application. The assessment concludes that the sites present a low risk of impacting on groundwater quality due to their proximity to aquifers and the flood risk in the area and that the site offers a very good potential site for cemetery development. Environmental Health (Pollution) has been consulted and no objection has been raised. The Environment Agency was consulted and has made no formal comments.
- 8.29. It is considered that the change of use to the land as a burial ground would not have an adverse impact with regard to pollution and is in accordance with Policy DM7 of the SADMP.

Other matters

- 8.30. Concern has been raised over the Parish Council's lack of consultation with the community prior to the submission of an application. The NPPF encourages early engagement with the local community before submitting an application although this is not a statutory requirement. The Parish Council has commented that they carried out consultation with residents delivering a leaflet to each household providing information about the proposals, and inviting comments.
- 8.31. A representation was received commenting that although there is a Public Right of Way over Church Walk. The road is in private ownership and vehicular access would not be granted. The Parish Council has confirmed that the land acquisition from the Crown Estate would include the whole of the section of Church Walk alongside the cemetery extension and there are no issues relating to the right of access.

**9. Equality Implications**

- 9.1. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

## 10. Conclusion

- 10.1. The application site is located within the settlement boundary of Shackerstone. The change of use would secure future provision of burial plots for people in the area wishing to be buried where they have a local connection or near to family members. The change of use would cause a less than substantial harm to the character and appearance of the conservation area and would not have an impact on the setting of St Peter's church. The less than substantial harm to the conservation area is considered to be outweighed by the wider public benefit of the proposal. The use would not have unacceptable impacts on groundwater quality, neighbouring amenity or highway safety. Therefore, in accordance with Policy DM1 of the SADMP and the provisions of the National Planning Policy Framework, it is not considered that there are any adverse impacts of granting planning permission that would demonstrably outweigh the benefits. Additionally, the proposal is considered to be in accordance with Policies DM7, DM10, DM11 and DM12 of the SADMP. In the assessment of the impact on heritage assets, the local planning authority has paid special attention to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## 11. Recommendation

- 11.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

### 11.2. Conditions and Reasons

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

**Reason:** To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, details and materials:

- 16-01 - Block Plan and Location Plan (received on 18 July 2016)
- Landscaping Plan (received on 2 September 2016)

**Reason:** To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

3. Before any development commences, representative samples of the bricks to be used on the wall along the northern boundary of the site and an elevation plan, shall be deposited with and approved in writing by the Local Planning Authority. The wall shall be constructed in accordance with those approved bricks.

**Reason:** To ensure that the development maintains a satisfactory appearance and in the interests of visual amenity to accord with Policies DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD.

4. Before any development commences, details of the proposed gates in the northern and eastern boundary walls of the application site shall be submitted to and approved in writing by the Local Planning Authority. The gates shall be constructed in accordance with those approved details.

**Reason:** To ensure that the development maintains a satisfactory appearance and in the interests of visual amenity to accord with Policies DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD.

5. Before any development commences, a tree report, prepared by a qualified arboriculturalist, shall be submitted to and approved by the Local Planning Authority. The tree report shall detail the root protection areas of the trees within and adjoining the application site. No burial plots shall be permitted within the root protection areas of the trees identified in the approved report.

**Reason:** To ensure that the development maintains a satisfactory appearance and in the interests of visual amenity to accord with Policies DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD.

6. All burial plots and associated land surrounding, hereby permitted, shall be prepared and maintained in accordance with the details submitted by the applicant entitled 'Rules relating to the maintenance of Shackerstone Parish Council Cemeteries at Shackerstone and Congerstone'.

**Reason:** To ensure that the development maintains a satisfactory appearance and in the interests of visual amenity to accord with Policies DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD.

7. Notwithstanding the provisions of Part 12 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order) 2015 (or any order revoking or re-enacting that order with or without modification) no small ancillary buildings shall be erected or constructed on the site without the grant of planning permission for such buildings by the Local Planning Authority.

**Reason:** To ensure that the development maintains a satisfactory appearance and in the interests of visual amenity to accord with Policies DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD.

### 11.3. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.

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Planning Committee 11 October 2016  
Report of the Chief Planning and Development Officer

Planning Ref: 15/01119/FUL  
Applicant: Mr Ranvir Singh Rai  
Ward: Barwell

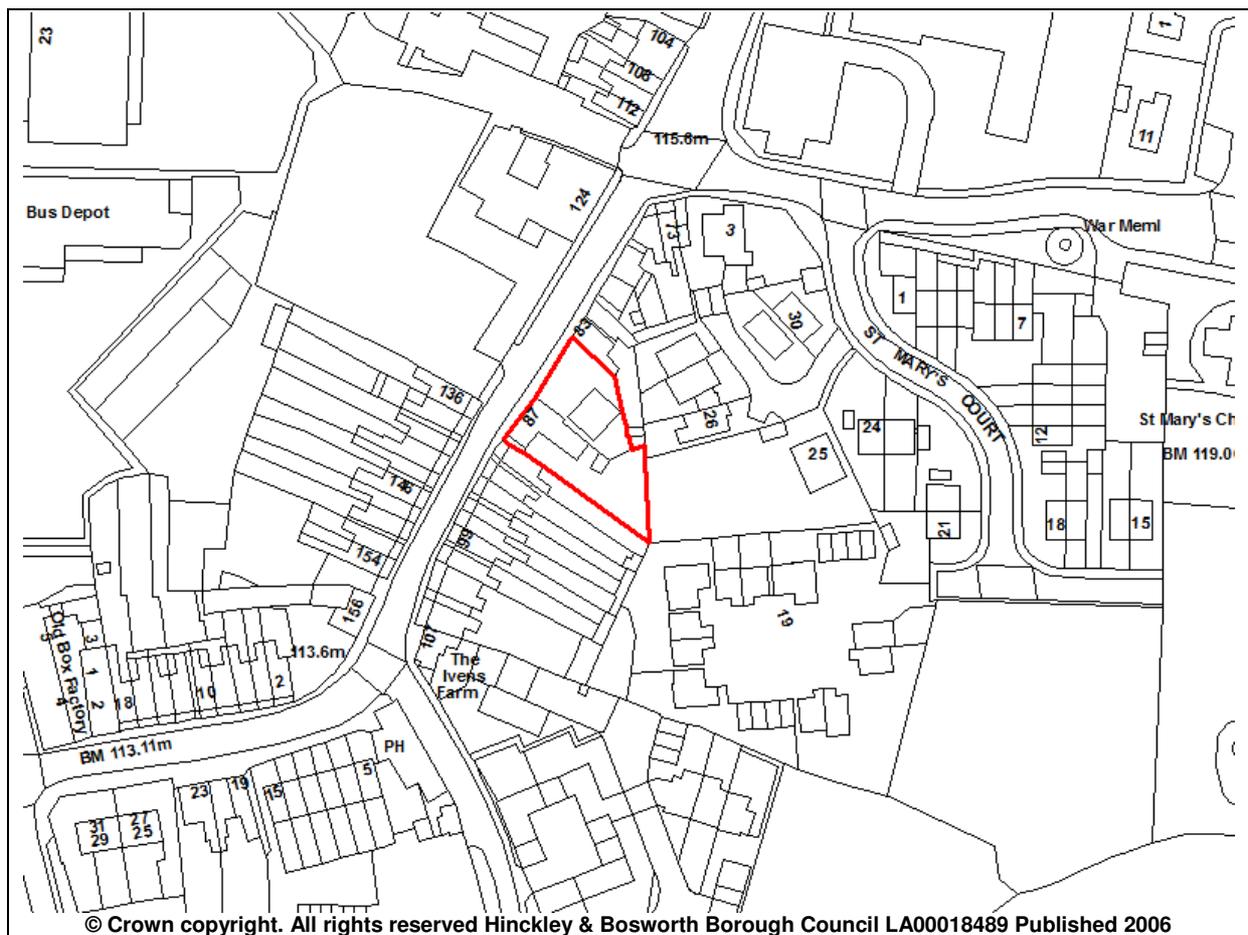


Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

Site: 87 High Street Barwell

Proposal: Extensions/alterations to existing 2 no. retail units and 1 no. residential unit to form 1 no. retail units and 5 no. self contained apartments



## 1. Recommendations

### 1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

### 1.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

## 2. Reasons for bringing report back to committee

### 2.1 At its meeting of 16 August 2016, consideration of this application was deferred to allow for further discussion on setting back the property.

2.2. Following the submission of amended plans a greater set back of the proposed side extension from 330mm to 775 mm is proposed. It is proposed that any greater set back than that proposed would compromise the internal layout and would result in a roof form which would not complement the character of the existing building.

2.3. The applicant has agreed an extension of time for determining the application.

### **3. Planning Application Description**

3.1. This application seeks full planning permission for the retention of one retail unit with an increase in footprint in the form of a proposed rear extension. The existing shop front would be widened and would feature timber framing and internally installed window shutters. The existing building and façade would remain, with a number of proposed extensions and alterations to create the retail unit and the provision of 5 flats. The proposal seeks to raise the existing ridge height of the existing building from 6.6 metres to approximately 7.6 metres; a two storey side extension would project approximately 6.3 metres from the existing gable end, with a single storey bin store and mono pitched roof attached to the extension. The side extension would be positioned below the proposed ridge height of the existing building. It would also be set back from the principal, road frontage elevation. To the rear of the building, a two storey rear extension would project from the rear wall of the original building, reducing to a single storey element.

3.2. Vehicular access would be in a similar position to the existing, situated to the north of the application site. The access point would lead to a rear parking and manoeuvring area to accommodate 7 off-street car parking spaces and a new cycle store to serve the development.

3.3. Amendments have been secured following consultation responses and officer negotiations on the application. The amendments reduce the number of retail units from 2 to 1, and the number of flats from 6 to 5. The amendments also seek to retain the existing building, alterations to the access and parking arrangement, and relocation of the proposed bin store.

### **4. Description of the Site and Surrounding Area**

4.1. The site is located to the east side of High Street within the settlement boundary of Barwell and within the Barwell Conservation Area. The two storey dwelling and retail building is a double fronted building with cream-painted render with slate roof. The building is located at the rear edge of the public footpath. To the north east of the building within the application site, is an existing large detached garage. The garage is also finished in cream-painted render with concrete roof tiles. The garage is currently used for storage and has two roller shutter doors within the front elevation. The garage is set back from the highway approximately by 8.5 metres and has a hardstanding to the front for the parking of vehicles associated with the property. The garage and hardstanding is bordered by another, separately-owned, dwelling fronting the highway. The dwelling has a ground floor habitable room window in the ground floor and a first floor bedroom window overlooking the area hardstanding.

### **5. Relevant Planning History**

94/00239/FUL	Erection of garage extension to shop/living accommodation	Approved	19.04.1994
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08/00558/COU	Change of use from a double garage to a retail unit and the existing retail unit converting back to residential	Approved	22.07.2008
08/00572/FUL	Erection of detached garage and canopy link	Approved	29.07.2008
08/00757/COU	Part change of use of a double garage to a class a1 retail unit and conversion of the existing retail unit to residential (re-submission of 08/00558/COU)	Approved	05.09.2008

## 6. Publicity

6.1 The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and 12 letters of objections have been received raising the following concerns:-

- 1) Increase of on street parking, as the proposal would build upon the existing parking area serving the building
- 2) Close proximity to a school and a residential care home and this would exacerbate parking in the side roads causing a highway danger to children and elderly crossing the roads
- 3) There have been three accidents to the frontage of No.87 and a fourth involving the neighbouring lamp post
- 4) Over development of the site and infilling. There are sufficient apartments and residential developments being delivered in Barwell
- 5) Will cause stress and ill health
- 6) Crash barrier should be conditioned to protect neighbouring dwelling
- 7) High Street Barwell is narrow due to the amount of on street parking and is extremely busy and this proposal would result in an increase highway danger.
- 8) Parking layout will cause issues with resident parking spaces being blocked in by those using the shop
- 9) Likely to result in damage to neighbouring dwellings
- 10) Close proximity of the building would result in loss of light
- 11) Entrance proposed will bring cars in close proximity to neighbouring dwelling causing noise and disturbance
- 12) Previous work carried out on the car park has caused damage to neighbouring property and this application should seek to rectify that matter
- 13) Does not propose sufficient parking spaces
- 14) Access does not afford adequate visibility
- 15) Not a need for a retail unit in this location
- 16) Bin store is sited inappropriately
- 17) An increase of litter
- 18) Noise pollution from the flats
- 19) Concreting of the rear of the site could cause flooding issues
- 20) May cause damage to adjoining boundary walls.

## 7. Consultation

7.1. No objections, some subject to conditions, received from:-

Conservation Officer  
Environmental Health (Pollution)  
Environmental Health (Drainage)  
Leicestershire County Council (Highways)  
Leicestershire County Council (Archaeology)

7.2. Councillor Roberts has objected to the application on the following grounds:-

- 1) Severe highway issues, no parking for the domestic or increase in the retail. The current parking situation is dangerous and numerous accidents with parked vehicles within this area, regardless of the double white line and blind bend
- 2) Highway issues are exasperated by the fact it is the main route into the village, with buses and Lorries passing through regularly
- 3) The existing retail unit although listed as two for high street purposes the village only see them regards parking and footfall as one, therefore an increase to two separate units in regard to footfall and parking is likely to cause a serious issue.
- 4) Visiting members to the retail unit quite often park illegally within the highway making it difficult for lorries and buses to pass
- 5) There would be no off road parking at all if the current retail unit is extended into half the existing parking area serving the site
- 6) Infill type development of existing properties with an increase in footfall, parking, increase on village resources, the division and expansion is unwarranted as Barwell is currently meeting the National Framework Policy in so much as the pending SUE allocation
- 7) There would be Lorry and van access to the properties close to No.83 High Street. This property has already been subject to accidents and damage to its structure and gable end
- 8) Previous resurfacing works carried out on the existing parking space, has caused damage to the neighbouring property.

7.3. Councillor Williams has also objected to the proposal on the same grounds raised by Councillor Roberts.

7.4. Since the application was taken to August Planning Committee Councillor Williams has stated that there are still concerns about traffic issue on this stretch of road as it's a bottle neck in the village.

7.5. Councillor Roberts has also made the following comments since the application was taken to the August Planning Committee:

- 1) Approximately 1 metre step back is unacceptable
- 2) Highway issues
- 3) Overdevelopment of the site
- 4) Buried wells on site, this has not been addressed
- 5) Two civil issues to neighbouring properties.

7.6. Barwell Parish Council has objected on the following grounds:-

- 1) Inadequate car parking
- 2) Access exits onto a blind corner
- 3) Restricts light to neighbouring dwelling
- 4) Object to the proposed use of roller shutters
- 5) Roof slates different to clay tiles
- 6) Road narrows outside number 87 High Street
- 7) Accident blind spot especially associated with school children and elderly
- 8) Loss of amenities for residence granted
- 9) More congested traffic in village
- 10) Should approve a play and open space contribution for Boston Way requested
- 11) Building work could damage old buildings in the immediate area that have little or no footings.

## **8. Policy**

8.1. Earl Shilton & Barwell Area Action Plan (2014)

- Policy 21: Infrastructure and Delivery
- Policy 22 : Development and Design

8.2. Local Plan 2006 – 2026: Core Strategy (2009)

- Policy 3: Development in Barwell

8.3. Site Allocations and Development Management Policies DPD (SADMP) (Adopted July 2016)

- DM1: Presumption in Favour of Sustainable Development
- DM10: Development and Design
- DM11: Protecting and Enhancing the Historic Environment
- DM12: Heritage Assets
- DM13: Preserving the Borough's Archaeology
- DM17: Highways and Transportation
- DM18: Vehicle Parking Standards

8.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
  - Presumption in favour of sustainable development
    - Paragraph 11-14
  - Ensuring the vitality of town centres
    - Paragraph 23
  - Using proportionate evidence base
    - Paragraph 169
- Planning Practice Guidance (PP

8.5. Other relevant guidance

- Barwell High Street Conservation Area Appraisal and Map

## 9. Appraisal

### 9.1. Key Issues

- Assessment against strategic planning policies
- Impact upon the character and appearance of the Barwell High Street Conservation Area (BHSCA)
- Impact upon neighbouring residential amenity
- Impact upon the highway
- Impact upon heritage assets
- Drainage
- Infrastructure Obligations
- Other Matters

#### Assessment against strategic planning policies

9.2. Paragraphs 11 - 13 of the National Planning Policy Framework (NPPF) state that the development plan is the starting point for decision taking; the NPPF is a material consideration in determining applications. The development plan in this instance consists of the adopted Site Allocations and Development Management Policies DPD (SADMP), the adopted Core Strategy (2009) and the Earl Shilton and Barwell AAP (2014).

9.3. The site is within the settlement boundary of Barwell. Core Strategy Policy 3 identifies Barwell as a settlement which supports Hinckley as the sub regional centre. Policy 3 of the adopted Core Strategy supports residential development within the settlement boundary of Barwell. The application seeks to retain a retail unit on site within the existing fabric of the building. This thereby would provide a mixed use residential and retail development. Policy DM1 of the SADMP provides a presumption in favour of sustainable development; the proposed development is in accordance with strategic development plan policies subject to all other planning matters being satisfactorily addressed.

#### Impact upon the character and appearance of the Barwell High Street Conservation Area (BHSCA)

9.4. The application site is situated within the BHSCA and is identified as being a Significant Local Building. Section 72 of the Planning (Listed Buildings and Conservation Area) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character and appearance of conservation areas.

9.5. Policies DM11 and DM12 of the adopted SADMP seek to ensure that the significance of a conservation area is preserved and enhanced through the consideration and inclusion of important features. Policy DM10 of the adopted SADMP requires development to complement or enhance the character of the surrounding area. Policy 22 (criterion a) of the adopted Earl Shilton & Barwell Area Action Plan DPD states that developments will be permitted provided that, amongst other matters, there would be no detriment to the character or appearance of the host building or the surrounding area and the development includes use and application of appropriate building materials.

9.6. The overall character and appearance of the original building has been compromised to some degree by the erection of a substantial detached garage to the north of the building. The proposed development would retain the existing street frontage elevation and proposes an increase to the existing ridge height, retaining the existing

chimney feature. Whilst the increase in ridge height is not the strongest element of the scheme, it will support the use of modern building practices to improve the viability of the scheme. As the proposed ridge would continue to maintain a lower ridge height compared to immediately neighbouring dwellings, the slight increase in its height would not result in a detrimental impact upon the appearance of the Significant Local Building or the special character of the Conservation Area. As referenced above, the chimney feature, which is an important and prominent feature of this building, would also be retained.

- 9.7. The scheme also includes the insertion of a traditionally designed shop front which would be larger than the existing, incorporating timber detailing and a central door with glazed panels either side and internal security shutters. The detail of the shutters is to be agreed.
- 9.8. The existing detached garage would be demolished and a side extension would project from the north east facing side elevation. The proposed extension is to be set back from the front elevation of the existing building, by 775mm, and the ridge height positioned below that of the original building, thereby appearing subordinate. The proposed windows and doors within the front elevation of the proposed extension seek to include cill and header details to the elevation. In contrast to the existing rendered finish the extension would be finished in brick reflective of the wider streetscene, and providing a clear definition between existing and new buildings.
- 9.9. In curtilage parking for the retail and the residential use would be provided to the rear of the building, removing the need for on-street parking or parking to the side of the building. The proposed bin store would be enclosed with matching facing bricks to that of the proposed extension and finished with a mono pitched roof, ensuring appropriate high quality means of storage, which would not impact upon the wider streetscene.
- 9.10. Concerns have been raised that the scheme is an overdevelopment of the site. The extension to the existing dwelling/retail unit is designed to be subservient and respects the character of the existing building it is therefore considered that the scale of development respects the site context and would not be considered 'over development'.
- 9.11. Given the above context, it is considered that the proposed scheme would preserve and enhance the appearance of the BHSCA by virtue of the sensitive design of the proposal which seeks to incorporate vernacular details of the Barwell High Street Conservation Area. The development is considered to be in accordance with Policies DM10, DM11 and DM12 of the adopted SADMP.

#### Impact upon neighbouring residential amenity

- 9.12. Policy DM10 (criterion a) of the adopted SADMP require that development does not adversely affect the amenities or privacy of the occupiers of neighbouring properties. Policy 22 of the adopted Earl Shilton & Barwell Area Action Plan DPD states that developments will be permitted provided that, amongst other matters, it does not adversely affect the privacy or amenity of nearby residents and occupiers of adjacent buildings including matters of visual intrusion and noise.
- 9.13. Objections have been received on the grounds that the proposal would result in an adverse impact on the amenities of neighbouring properties from noise and disturbance generated from the use and traffic movements.

- 9.14. No 89 High Street is a two storey terraced dwelling situated to the south of the application site. The proposed scheme seeks a two storey and single storey rear extension to the original building, this would extend along the common boundary with No.89, with the proposed two storey extension projecting approximately 1.2 metres beyond the rear elevation of No.89. The single storey element would project approximately 4 metres. The single storey projection would have an overall height of approximately 2.5 metres. There is an existing 1.8 metre close boarded fence which defines the common boundary. Given this relationship and context, the existing ground floor windows positioned within the elevation of No.89 would have some limited loss of light and overshadowing to the rear of No.89, particularly in the early part of the day. This impact would not be permanent given the continually changing orientation of sun from the east to the west through the course of the day. It is considered that there would not be a sufficient or significant loss of light or overshadowing that would sustain a reason for refusal in this case.
- 9.15. The application proposes, 4 car parking spaces, adjacent to the boundary of No.89. The parking spaces would be situated approximately one metre away from the common boundary. Given the proposal seeks a single retail unit and the low number of one bed flats it is not considered that the development would result in any adverse impact in terms of noise from vehicle movements. A condition for suitable boundary treatment is recommended to ensure adequate neighbouring residential amenity is maintained.
- 9.16. To the east of the application site is No.83, a two and a half storey terraced property. There are three windows within the side facing elevation of No.83 which face towards the application site. These are secondary windows serving the property. There are no side facing windows proposed within the building which would oppose these existing windows. Given the distance between the side elevation of the proposed extension and No.83, approximately 6.5 metres, the proposed development would not result in any significant overbearing impact on the residential amenity of the adjacent occupiers. The proposed access would be positioned between No.83 and No.87. The area is currently used for parking for visiting members of the public, and this proposed development would remove parked cars within close proximity to the side elevation of No.83. The scheme would therefore not result in an adverse impact over above the existing situation.
- 9.17. Given the above context, it is considered that the proposal would therefore be in accordance with Policy DM10 of the adopted SADMP and Policy 22 of the adopted Earl Shilton & Barwell Area Action Plan DPD.

#### Impact upon Highway Safety

- 9.18. Policies DM17 and DM18 of the adopted SADMP require adequate access and off-street vehicle parking facilities to be provided to serve developments.
- 9.19. Objections have been received in respect of the proposed access and parking facilities. Objections have also been received in respect of the lack of off-street parking and the narrowness of this section of High Street, Barwell.
- 9.20. The scheme seeks to provide off street parking spaces to serve 7 cars, which would serve the 5 one bed flats and the retail unit. A cycle store is also proposed. The scheme would allow cars to enter and leave the site in a forward gear, removing the risk currently observed reversing of cars, back into the highway.

- 9.21. Leicestershire County Council (Highways) have assessed the scheme and do not object to the proposal by virtue of the applicant adequately demonstrating that the scheme would provide sufficient off-street parking and proposes a safe means of access. The scheme would not result in significant additional impacts on highway safety. Therefore, subject to the imposition of conditions relating to visibility, the provision of car parking prior to the first use of the development and the provision and maintenance of cycle parking the proposed development is considered to be acceptable in terms of highway safety, and would accord with Policies DM17 and DM18 of the adopted SADMP.

#### Impact upon heritage assets

- 9.22. Policy DM11 and DM12 of the adopted SADMP seeks to ensure that development proposals shall protect, conserve and enhance the historic environment.
- 9.23. The application site is situated within an area of archaeological interest as identified within The Leicestershire and Rutland Historic Environment Record. The site is situated within the historic settlement core of medieval and post medieval Barwell (HER Ref: DLE6670) where there is potential for the presence of archaeological remains within the application area, which would be affected by the development. Archaeological evaluation and exaction undertaken in 2006 at St Marys Court, located to the south east of the application site, revealed post holes relating to the remains of a late prehistoric round house, an assemblage of Roman artefacts suggesting nearby settlement and a series of medieval boundary ditches in addition to the remains of a possible medieval fish pond. There is therefore potential for the presence of archaeological remains within the application area, likely to be affected by the proposal.
- 9.24. Leicestershire County Council (Archaeology) do not object to the proposal. It seeks further information with regard to the archaeological evaluation of the site. This information can be secured by condition and is considered to be a reasonable approach to ensure that any archaeological remains present are treated appropriately. Subject to the inclusion of this condition the development would not have a detrimental impact upon the understanding of the significance of any heritage asset, and would therefore be in accordance with Policies DM11 and DM12 of the SADMP.

#### Drainage

- 9.25. Policy DM7 of the SADMP states that development proposals should provide satisfactory surface water and foul water drainage. In addition the NPPF sets out at Paragraph 100 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.
- 9.26. Objections have been received in respect of increase flooding being caused as a result of this development.
- 9.27. Environmental Health (Drainage) has raised no objection to the application which proposes the use of a soakaway as a means of managing surface water drainage. This is considered appropriate. It is suggested that the applicant utilises permeable paving where possible to disperse surface water efficiently. This would also form part of any landscaping plan submission. It is not considered that the proposal would lead to any harm in terms of flooding and therefore would be in accordance with Policy DM7 of the adopted SADMP and the relevant provisions of the NPPF.

### Infrastructure Contributions

- 9.28. Policy 19 of the Core Strategy, Policy DM3 of the emerging SADMP and the Play and Open Space SPD require new residential development to contribute towards the provision and maintenance of public play and open space facilities for children. However, Paragraph: 031 Reference ID: 23b-031-20160519 of the Planning Practice Guidance (PPG), which is a material consideration, states that tariff style planning obligations should not be sought for developments of 10 units or less and which have a maximum combined gross floor space of no more than 1000sqm. In light of the guidance in the PPG, a contribution towards play and open space provision is not being sought.

### Other Matters

- 9.29. Objections have been received in respect of previous alterations which have taken place at the existing property causing damage to the neighbouring dwellings, and the risk of damage being likely through implementation of the proposed development. Any damage which has been caused and what may be caused, is not a material planning consideration and is deemed to be a civil matter between the affected interested parties.
- 9.30. A suggested condition for the installation of a crash barrier to be installed along the access of the application site is not considered to be a reasonable or necessary measure, as the access has been designed for vehicles to enter the site in a controlled manner.
- 9.31. Comments have been raised in relation to illegal parking within High Street Barwell. This is a matter for the police and would not be controlled by the consideration of this planning application.
- 9.32. Concerns have been raised with regard to buried wells on the site and the impact the development will have on these. The applicant has not been able to provide information on any buried wells within the site. Any issues found on site during construction, such as buried wells, would be dealt with/controlled through building regulations. This is not a material planning consideration in the consideration of this development.

## **10. Equality Implications**

- 10.1. Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
    - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
    - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
    - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.

10.3. There are no known equality implications arising directly from this development.

## 11. Conclusion

11.1. The concerns raised in response to local consultation have been carefully considered as part of the assessment of this application. However, the application site is in a sustainable location within the centre of Barwell, close to services and facilities and is acceptable in principle and would contribute to the overall supply and mix of housing within the Borough. The latest alterations and extensions to the existing building, following the previous deferral at Planning Committee in August 2016, are considered to be sympathetic to the existing site and buildings, and would preserve and enhance the character and appearance of the Barwell High Street Conservation Area and identified heritage assets. The scheme would not result in any significant adverse impact on the amenities of any neighbouring residential occupiers, and would provide adequate off street parking and means of access. The scheme also removes the need for cars to reverse onto High Street, which is the situation at present and would therefore provide an improvement to highway safety. The proposal would not therefore result in any demonstrable adverse impacts on highway safety.

11.2. It is considered that the revised proposal would be in accordance with adopted policies DM1, DM3, DM10, DM11, DM12, DM13, DM17, DM18, and DM22 of the SADMP and Policy 22 of the adopted Earl Shilton and Barwell Area Action Plan. The assessment of the application has also had regard to the duty of the local planning authority to give special attention to the desirability of preserving or enhancing the character and appearance of that area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and is recommended for approval subject to conditions.

## 12. Recommendation

12.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

12.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

12.3. **Conditions and Reasons**

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

**Reason:** To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location plan Dwg No 2015-09/18/09 Rev C, Site Plan Dwg No 2015-09/18/10 Rev E, Proposed floor plan Dwg No 2015-09/18/04 Rev F, Proposed Elevations Dwg No 2015-09/18/05 Rev F, Proposed Elevations Dwg No 2015-09/18/06 Rev E received by the Local Planning Authority on 20 September 2016.

**Reason:** To ensure a satisfactory appearance and impact of the development to accord with Policies DM1, DM10 and DM11 of the adopted Site Allocations and Development Management Policies DPD.

3. Notwithstanding the submitted details, before development commences full details including samples of all external materials, including facing bricks, cill detail, roof tiles, details of proposed new windows and shop front detail and design shall be submitted to and approved in writing by the local planning and the scheme shall be implement in accordance with the approved details.

**Reason:** To ensure a satisfactory external appearance in the interests of visual amenity to protect and enhance the character and appearance of the building and surrounding Barwell High Street Conservation Area in accordance with Policies DM10 and DM11 of the adopted Site Allocations and Development Management Policies DPD.

4. Notwithstanding the submitted details, before development commences full details of the bin store, including samples of all external materials and details of means of enclosure, shall be submitted to and approved in writing by the local planning authority and the scheme shall be implemented in accordance with the approved details.

**Reason:** To ensure a satisfactory external appearance in the interests of visual amenity to protect and enhance the character and appearance of the building and surrounding Barwell High Street Conservation Area in accordance with Policies DM10 and DM11 of the adopted Site Allocations and Development Management Policies DPD.

5. The proposed cycle storage and bin storage areas shall be provided prior to the first occupation of any of the apartments hereby permitted and shall be permanently available and maintained for such uses at all times thereafter.

**Reason:** To encourage alternative transport choice and to provide satisfactory cycle storage and bin storage facilities to serve the apartments hereby permitted in the interests of the sustainability of the development to accord with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD.

6. Notwithstanding the submitted plans no development shall commence until a scheme of hard and soft landscaping works, including boundary treatments, surfacing and proposed planting plans and management, for the site has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved landscaping scheme.

**Reason:** In the interests of visual and neighbour amenity, to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD.

7. Within one week of the development being brought into use, any redundant existing vehicular crossings shall be closed and the footway shall be reinstated to the satisfaction of the Local Planning Authority in consultation with the Highway Authority.

**Reason:** In the interests of general highway safety, particularly pedestrian safety to accord with Policy DM18 of the Site Allocation and Development Management Policies DPD.

8. The off-street car parking and turning facilities as shown on submitted plan Dwg No. 2015-09/18/04 Rev E shall be provided within the application site in accordance with those details shown on the submitted plan; the parking and turning areas shall be surfaced and marked out prior to the development being brought into use, and shall thereafter be so maintained at all times.

**Reason:** To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area and to enable vehicles to enter and leave the site in a forward direction in the interests of the safety of road users to accord with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD.

9. No planting or fences shall be erected or allowed to grow on the highway boundary exceeding 0.6 metres in height above the level of the adjacent carriageway.

**Reason:** To afford adequate visibility at the access/junction to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD.

10. Before first use of the development hereby permitted, the vehicular access to the site shall be provided with an effective minimum width of 6 metres over a distance of at least 10 metres behind the highway boundary. The access drive shall be provided before any dwelling hereby permitted is first occupied and shall thereafter be permanently so maintained. NOTE: 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.

**Reason:** 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 DM17 of the adopted Site Allocations and Development Management Policies DPD.

11. Before first use of the development hereby permitted, the vehicular access to the site shall be provided with 4 metre control radii on both sides of the access.

**Reason:** To enable vehicles to enter and leave the highway in a slow and controlled manner and in the interests of general 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 DM17 of the Site Allocations and Development Management Policies DPD.

12. 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 not to open outwards.

**Reason:** To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway to accord with Policy DM17 of the Site Allocations and Development Management Policies DPD.

13. No development shall commence until a programme of archaeological work (strip, plan and record excavation and Archaeological attendance) including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; an:

- The programme and methodology of site investigation and recording
- The programme for post investigation assessment
- Provision to be made for analysis of the site investigation and recording
- Provision to be made for publication and dissemination of the analysis and record of the site investigation
- Provision to be made for archive deposition of the analysis and record of the site investigation
- Nomination of a competent persons/organisation to undertake the works set out within the written scheme of investigation.

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation.

**Reason:** To ensure satisfactory archaeological investigation and recording in accordance with Policy DM13 of the Site Allocations and Development Management Policies DPD.

14. The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (13) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

**Reason:** To ensure satisfactory archaeological investigation and recording in accordance with Policy DM13 of the Site Allocations and Development Management Policies DPD.

#### 12.4. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance, or alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
3. Any access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

Planning Committee

11<sup>th</sup> October 2016

WARDS AFFECTED: ALL WARDS']

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## APPEALS PROGRESS REPORT

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### Report of Chief Planning and Development Officer

#### 1. PURPOSE OF REPORT

1.1 To update members on the progress of current planning appeals.

#### 2. RECOMMENDATION

2.1 Members of the Planning Committee are asked to:

- 1) Note the progress of current appeals, attached at Appendix 1
- 2) Endorse the Statement of Case for the latest planning appeal ref 16/00311/OUT at Beech Drive Thornton, attached at Appendix 2

#### 3. BACKGROUND TO THE REPORT

3.1 The appeal progress report set out at Appendix 1 includes current progress on outstanding appeals and is for member's information. Members are asked to note the contents of the report.

3.2 With regard to Appendix 2, there are two existing, conjoined planning appeals that are scheduled to be heard by way of Public Inquiry in March 2017. The second appeal is against the Council's refusal of application 16/00311/OUT on 1 June 2016. In the stages of preparation for the Inquiry for this appeal the Council is required to submit its Statement of Case for 16/00311/OUT (48 houses) to the Planning Inspectorate, providing sufficient details of the case that the Council will make for all participants to understand the case that will be made at the Inquiry. The Statement of Case for 14/01274/OUT (49 houses) has already been submitted to the Planning Inspectorate. There are further stages in the appeal process, leading up to the Inquiry itself. This includes the submission of Proofs of Evidence by relevant witnesses in advance of the start of the Inquiry. The Inquiry is scheduled to start on 14<sup>th</sup> March 2017.

3.3 Given the now conjoined nature of the appeals and the change in circumstances since the decision on the first application in 2015, more particularly the change in the planning policy context since the planning application decision in June 2016 following

the adoption of the Site Allocations and Development Management Policies Development Plan Document in July 2016, it is considered appropriate that the Council's Statement of Case is presented to the Planning Committee for endorsement before it is submitted to the Planning Inspectorate. Effectively, policies that previously formed part of the Development Plan and listed in the reason for refusal have been deleted. The draft Statement of Case at Appendix 2 is also written to clarify and explain in more detail the reason for refusal of 16/00311/FUL as stated in the Decision Notice dated 1 June 2016.

3.4 The deadline for the submission of the Statement of Case to the Planning Inspectorate has been extended to take account of the October meeting of the Planning Committee.

4. EXEMPTIONS IN ACCORDANCE WITH THE ACCESS TO INFORMATION PROCEDURE RULES

4.1 The report is to be heard in open session.

5. FINANCIAL IMPLICATIONS [TF]

5.1 The inquiry for this appeal is due to commence in the financial year 2017 – 2018 and has an anticipated cost of £25,000 in total, of which a cost of £7,726 has been incurred to date. The remaining cost will be factored into the budget setting process and funded from the appeals reserve. This budget will be approved by council.

6. LEGAL IMPLICATIONS [MR]

6.1 None

7. CORPORATE PLAN IMPLICATIONS

7.1 The Council needs to manage its performance through its Performance Management Framework with regard to appeals.

8. CONSULTATION

8.1 None

9. RISK IMPLICATIONS

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

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

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

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner

Financial implications for the Council in defending appeals.	Take into account the risk of refusing applications and the likely success of an appeal	Nic Thomas
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10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

10.1 The report provides an update to Planning Committee current appeal cases. The implications of these appeals are determined on a case by case basis and can affect the planning balance when considering individual planning applications affecting all sections of the community.

10.2 As this report does not propose any amendment to a service or Policy, an Equality Impact Assessment is not relevant.

11. CORPORATE IMPLICATIONS

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

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Procurement implications
- Human Resources implications
- Planning implications
- Data Protection implications
- Voluntary Sector

Background papers: Relevant Planning Applications documents available on the Council's Planning Portal

Contact Officer: Jeff Upton, extension 5970

Executive Member: Councillor Rooney

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## PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 23.09.16

**WR - WRITTEN REPRESENTATIONS**

**IH - INFORMAL HEARING**

**PI - PUBLIC INQUIRY**

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
	RWR	15/00536/OUT (PINS Ref 3159043)	WR	Mrs Lynette Fallows Highfield Farm, No Mans Heath Road Chilcote Swadlincote	8 Wood Lane Norton Juxta Twycross Atherstone (Erection of 3 dwellings (outline - access and layout) (revised scheme))	Awaiting Start Date	
	RWR	16/00113/COU (PINS Ref 3157918)	IH	Mr Fred Price c/o Agent	Land Adj. Hissar House Farm Leicester Road Hinckley LE9 8BB (Change of use of land for gypsy/traveller site for the provision of two static caravans, one touring caravan, erection of two amenity buildings and associated infrastructure)	Awaiting Start Date	
	SP	16/00202/FUL (PINS Ref 3157729)	WR	Ms Sue Johnson 3 Markfield Lane Botcheston Leicester LE9 9FH	Polebrook Hayes Farm 3 Markfield Lane Botcheston (Change of use and extension of agricultural building to form an agricultural workers dwelling and erection of agricultural building (resubmission))	Awaiting Start Date	
	CA	16/00362/OUT	WR	Mr Ian Holdaway Mancetter Farm Quarry Lane Mancetter Warwickshire CV9 1HL	Land South West Of Charnwood House Thornton Lane Markfield Leicestershire (Erection of 4 dwellings (outline - access only))	Awaiting Start Date	

16/00027/TREE	KP	16/00487/TPO (PINS Ref 5421)	IH	Adam Powell 38 The Limes Ravenstone Coalville LE67 2NW	1A Everards Way Stanton Under Bardon Markfield LE67 9TH (Fell and replace laburnum (T1) and silver birch (T2), crown lift silver birch (T3) and fell rowan (T5))	Start Date Statement of Case	23.08.16 04.10.16
16/00029/PP	RWE	16/00339/FUL (PINS Ref 3156193)	WR	Mr Paul Batson The Breson Partnership Keats Lane Earl Shilton LE9 7DR	9 Equity Road East Earl Shilton (Erection of 2 no. dormer bungalows with 2 no. detached garages)	Start Date Statement of Case Final Comments	13.09.16 18.10.16 01.11.16
16/00030/PP	SF	16/00386/FUL (PINS Ref 3156057)	WR	Mr Nigel Salt NP Salt Builders Ltd c/o Agent	Cadeby Hall Main Street Cadeby (Erection of two detached dwellings (revised scheme))	Start Date Statement of Case Final Comments	13.09.16 18.10.16 01.11.16
16/00028/PP	RWR	16/00178/FUL (PINS Ref 3153867)	WR	Mr Shaun Hussey Dash Homes (Midlands) Ltd C/o Agent	Land To The Rear Of 25 & 27 Burbage Road Burbage (Subdivision of rear gardens of No's. 25, 27 and 29 and erection of four dwellings and erection of single garages for No's. 25 & 27)	Start Date Statement of Final Comments	31.08.16 05.10.16 19.10.16
16/00022/ENF	CA	15/00119/UNBLDS (PINS Ref 3152517)	WR	Mr Graham Penney The Oaks Stapleton Lane Kirkby Mallory Leicester LE9 7QJ	The Oaks Stapleton Lane Kirkby Mallory Leicester LE9 7QJ (Extending bed and breakfast accommodation)	Start Date Awaiting Decision	12.07.16
16/00021/VCON	CA	16/00117/CONDIT (PINS Ref 3152465)	WR	San Giovanni Mill Lane Sheepy Parva Atherstone CV9 3RL	San Giovanni Mill Lane Sheepy Parva Atherstone CV9 3RL (Removal of condition 4 of planning permission 14/00099/FUL to remove the obscure windows (retrospective))	Start Date Awaiting Decision	30.06.16
	CA	15/01243/COU (PINS Ref 3154702)	IH	Mr P Reilly and Others Good Friday Caravan Site Bagworth Road Barlestone CV13 0QJ	Good Friday Caravan Site Bagworth Road Barlestone (Retention of five traveller pitches)	Awaiting Start Date	

16/00019/PP	RWE	15/00858/FUL (PINS REF 3151312)	WR	Mr Vinny Bhandari Character Developments Newlands Rickmansworth WD3 4EP	Bosworth House 46 New Buildings Hinckley (Additional storey to create 3 No. flats above existing building and amendments to the external appearance of the building)	Start Date Awaiting Decision	13.06.16
16/00016/HEDGE	CA	15/00816/HEDGE (PINS Ref APP/H/16/1509)	WR	Mr & Mrs Stokes	90 Forest Road Hinckley (Complaint High Hedges)	Start Date Awaiting Decision	15.04.16
16/00003/CLD	CA	15/00933/CLUE (PINS Ref 3143504)	PI	Mr Arthur McDonagh	Land To The North Of Newton Linford Lane Newtown Linford Lane Groby (Application for a Certificate of Lawful Existing Use for a dwelling)	Start Date Inquiry Date - 2 days	12.02.16 18 & 19.10.16
16/00006/ENF	CA	10/00234/UNAUTH (PINS Ref 3143502)	PI	Mr Arthur McDonagh	Land To The North Of Newton Linford Lane Newtown Linford Lane Groby (Caravans present on land in contravention to the court order and enforcement action)	Start Date Inquiry Date - 2 days	12.02.16 18 & 19.10.16
15/00013/PP	HW	14/01274/OUT (PINS Ref 3081119) To be conjoined with 3156239	PI	JH Hallam & Son Ltd	Land Beech Drive Thornton (Residential development of up to 49 dwellings (Outline - access))	Start Date Public Inquiry (6 days)	09.07.15 14-17 & 21 & 22.03.17
16/00026/PP	JU	16/00311/OUT (PINS Ref 3156239) To be conjoined with 3081119	PI	JH Hallam & Son Ltd	Land Beech Drive Thornton (Residential development of up to 48 dwellings (Outline - access))	Start Date Rule 6 Statement Statement of Common Grd Proof of Evidence Public Inquiry (6 days)	22.08.16 17.10.16 14.02.17 14.02.17 14-17 & 21 & 22.03.17

**Decisions Received**

16/00020/PP	AC	15/01173/OUT (PINS Ref 3150072)	WR	Mr P Vesty 34 Lindridge Lane Desford	Field Maple House 34 Lindridge Lane Desford (Erection of 1 dwelling (outline - access only) (revised scheme))	<b>DISMISSED</b>	<b>26.08.16</b>
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16/00023/FTPP	RWR	16/00129/HOU (PINS Ref 3153896)	WR	Mr J. Fox 61 Station Road Ratby Leicester LE6 0JQ	61 Station Road Ratby Leicester LE6 0JQ (Side extension to dwelling)	<b>DISMISSED</b>	<b>09.09.16</b>
16/00024/FTPP	RWE	16/00428/HOU (PINS Ref 3154127)	WR	Mr Michael Gregory 30 Primrose Drive Burbage Hinckley LE10 2SL	30 Primrose Drive Burbage Hinckley (Two storey front extension)	<b>ALLOWED</b>	<b>20.09.16</b>
16/00025/FTPP	SF	16/00191/HOU (PINS Ref 3155176)	WR	Mr Colin Varney 20 Pennant Road Burbage LE10 2LA	1 Cumbrae Drive Hinckley LE10 0SL (Extension to rear garden area and erection of fence)	<b>DISMISSED</b>	<b>21.09.16</b>

**Rolling 1 April 2016 - 23 September 2016**

**Planning Appeal Decisions**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn	Officer Decision			Councillor Decision			Non Determination		
					Allow	Spt	Dis	Allow	Spt	Dis	Allow	Spt	Dis
26	5	21	0	0	3	0	17	2	0	4	0	0	0

**Enforcement Appeal Decisions**

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn
2	1	1		

**HINCKLEY & BOSWORTH BOROUGH  
COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL BY J H HALLAM & SON LTD**

**LAND AT BEECH DRIVE, THORNTON,  
LEICESTERSHIRE**

**LOCAL PLANNING AUTHORITY REF NO:  
PLANNING INSPECTORATE REF NO:**

**16/00311/OUT  
APP/K2420/W/16/3156239**

**LOCAL PLANNING AUTHORITY STATEMENT OF CASE**

**SEPTEMBER 2016**

## **1. INTRODUCTION**

- 1.1 This Statement of Case by Hinckley and Bosworth Borough Council relates to the refusal of planning application ref 16/00311/OUT submitted by J H Hallam & Son Ltd for "*Residential development of up to 48 dwellings (outline – access) (resubmission)*" at Land at Beech Drive, Thornton.
- 1.2 The application was recommended for approval by the Chief Planning and Development Officer but refused by the Local Planning Authority on 1 June 2016 for one reason, as described by the Decision Notice.

## **2. THE APPEAL SITE AND ITS SURROUNDINGS**

- 2.1 The site is an area of 2.15 hectares and comprises a single pastoral unit. The site, slopes appreciably down towards the south-west and is enclosed on all sides by mature native hedgerow and a belt of trees along the south-western side. The post-war residential estate of Hawthorn/Beech Drive lies to the north-west of the site and the site abuts the rear of properties on Main Street to the north. Public footpath R85 runs within the site, along the north-eastern boundary, to the rear of the properties on Main Street. Thornton is a small linear settlement which has developed through ribbon development along Main Street. Although modern infill developments and modernisations have taken place along Main Street, the majority of modern development has been towards the southern fringe of the village. The site falls outside of, but adjacent to the settlement boundary of the village as defined by the recently adopted Hinckley and Bosworth Site Allocations and Development Management Policies DPD (July 2016) (SADMP).

## **3. PLANNING HISTORY**

- 3.1 Application 16/00311/OUT is a resubmission of refused planning application 14/01274/OUT, albeit with minor changes. 14/01274/OUT is also subject to appeal and the appeals are conjoined.

#### **4. THE APPEAL PROPOSAL**

- 4.1 The proposal is accompanied by a masterplan that suggests the development of up to 48 dwellings, with formal and informal play and open space. A full description is in the Statement of Common Ground.

#### **5. THE DEVELOPMENT PLAN**

- 5.1 Under Section 38(6) of the Planning and Compulsory Purchase Act 2004, applications are to be determined in accordance with the Development Plan unless material considerations indicate otherwise.

- 5.2 The Hinckley and Bosworth Development Plan comprises the “Local Plan (2006-2026),” which consists of the following documents:

- a) Core Strategy (2009)
- b) Hinckley Town Centre Area Action Plan (2011)
- c) Earl Shilton and Barwell Area Action Plan (2014)
- d) Site Allocations and Development Management Policies (2016). This was adopted on 12 July 2016

It also includes the Market Bosworth Neighbourhood Development Plan (2015).

- 5.3 The Decision Notice refers to Policies NE5 and RES5 of the Hinckley and Bosworth Local Plan 2001. However, the Local Plan 2001 has been superseded. Policy RES5 does not have a replacement in the Local Plan (2006-2026). Policy NE5 has been replaced by SADMP Policy DM4: Safeguarding the Countryside and Settlement Separation. The policy states that the countryside will “first and foremost” be safeguarded from unsustainable development, and that development proposals will be considered appropriate where one of 5 criteria are met, and all of a further 5 criteria are met.
- 5.4 Also relevant are Policies 7 and 10 of the Core Strategy 2009. These are not mentioned in the Decision Notice but are relevant to the proposed development “*not being in accordance with the council’s aspirations for development as set out within the Local Plan.*”

## **6. THE CASE FOR THE LOCAL PLANNING AUTHORITY**

6.1 The differences between the two proposals 14/91274/OUT and 16/00311/OUT are not significant (up to 48 dwellings vs up to 49 dwellings). Although the Decision Notices are worded differently, the objection to the proposed development 16/00311/OUT is the same and the LPA intends to advance the same case with regard to both appeals. In summary, the objection is:

- The proposal is contrary to the Development Plan spatial strategy, which focuses development upon urban areas and two SUEs.
- Loss of countryside, a limited resource and an asset to the borough.
- It has not been demonstrated that there is a need for additional housing in Thornton

6.2 For sake of clarity, the LPA does not identify harm to existing infrastructure and facilities in Thornton.

### **Housing land supply**

#### Introduction

6.3 It is apparent from the appellant's Statement of Case that the housing supply figure, and in particular, the correct housing requirement, is a matter of dispute. The most recent benchmarks for determining housing supply in the borough are:

- "Land south of Markfield Road, Ratby APP/K2420/W/15/3003301" determined on 9<sup>th</sup> October 2015
- "Land off Sherborne Road, Burbage APP/K2420/W/15/3004910" determined on 4<sup>th</sup> May 2016
- The SADMP Inspector's final report published on 17 May 2016.
- The April 2016 Residential Land Availability Statement

6.4 The two appeal inspectors concluded that the borough had a 5 year supply of housing land and the appeals were dismissed. Since the Ratby and Sherborne Road

appeal decisions, the Inspector's Report for the Site Allocations and Development Management has been published (17 May 2016). It states that:

*“Although the Core Strategy was adopted in 2009, and pre-dates the publication of the NPPF, I am satisfied from the evidence presented by all parties at the examination that its strategic approach to meeting the development requirements of the borough remains sound, and that there is demonstrable impetus towards achieving its key growth proposals, for example by recent trends in housing delivery.*

*I am also satisfied that the Plan (together with the Council's AAPs) does provide sufficient sites in order to maintain five years worth of housing throughout the remainder of the Plan period.”*

6.5 With particular reference the Sherborne Road decision, the following conclusions may be reached:

- A sound full, objectively assessed need (OAN) is 9000 dwellings (450 dwellings per annum), deriving from the SHMA 2014 (Leicester and Leicestershire Strategic Housing Market Assessment), consistent with the population projections for 2012 and validating the Core Strategy 2009 requirement. *Note: an OAN of 450dw/annum was a matter of common ground at the Ratby inquiry but not at the Sherborne Road inquiry.*
- The 'Sedgefield' methodology is preferred to address the existing undersupply in housing.
- There has not been a persistent under-delivery in the borough and so a buffer of 5% applies to the calculation.
- All of the sites submitted by the Council on large and small sites are deliverable, including the two Sustainable Urban Extensions (SUEs) at Earl Shilton and Barwell.
- A 4.3% discount for large sites and 8.8% discount for small sites take account of non-implementation of planning permissions.
- The Council has been realistic in respect of sites allocated in the Site Allocations and Development Management Policies DPD (SADMP)



## Borough Housing Requirement

6.6 The Framework sets out in Paragraph 47 that “*to boost the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;.....*”

6.7 The Guidance states:

*What is the starting point for the five-year housing supply?*

*The National Planning Policy Framework sets out that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years’ worth of housing against their housing requirements. Therefore local planning authorities should have an identified five-year housing supply at all points during the plan period. Housing requirement figures in up-to-date adopted Local Plans should be used as the starting point for calculating the five year supply. Considerable weight should be given to the housing requirement figures in adopted Local Plans, which have successfully passed through the examination process, unless significant new evidence comes to light. It should be borne in mind that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs. (Paragraph: 030 Reference ID: 3-030-20140306)*

6.8 The Core Strategy 2009 has a housing requirement of 9,000 dwellings for the period 2006-2026, or 450 dwellings per annum. As supported by the Sherborne Road Decision Letter (paragraphs 5 to 17), a sound full, objectively assessed need (OAN) is 9000 dwellings (450 dwellings per annum), deriving from the SHMA 2014 (Leicester and Leicestershire Strategic Housing Market Assessment), consistent with the population projections for 2012 and validating the Core Strategy 2009 requirement. A Proof of Evidence will be submitted by the LPA to explain in more detail the OAN for this appeal, and the outcome of the forthcoming High Court challenge to the Sherborne Road decision.

## Completions

- 6.9 Table 1 above is a table of five year housing land supply. The table shows a net total of 4,307 dwelling completions within the borough since the start of the plan period 1 April 2006 (against a completion requirement equating to 4500 dwellings - an average of 450 dwellings per year). This leaves a cumulative shortfall of 193 dwellings when assessed against the requirement since 1 April 2006.

## Dealing with the Shortfall

- 6.10 The Guidance at paragraph: 035 [Reference ID: 3-035-20140306] states:

*Local planning authorities should aim to deal with any undersupply within the first 5 years of the plan period where possible. Where this cannot be met in the first 5 years, local planning authorities will need to work with neighbouring authorities under the 'Duty to Cooperate'.*

- 6.11 The 'Sedgefield' methodology is used to address the existing undersupply in housing. This approach consists of front loading the shortfall over the next 5 years rather than later in the plan period. Therefore the shortfall of 193 dwellings since the start of the plan period has been added to the annual requirement of 450 dwellings over the next five years, equating to 489 dwellings per year.

## The Appropriate Buffer

- 6.12 At paragraph 47, the Framework requires local planning authorities to provide an additional buffer of 5% against their housing supply requirements, increased to 20% where there has been a record of persistent under-delivery of housing. The Guidance at paragraph: 035 [Reference ID: 3-035-20140306] states:

*The approach to identifying a record of persistent under delivery of housing involves questions of judgment for the decision maker in order to determine whether or not a particular degree of under delivery of housing triggers the requirement to bring forward an additional supply of housing.*

*The factors behind persistent under delivery may vary from place to place and, therefore, there can be no universally applicable test or definition of the*

term. It is legitimate to consider a range of issues, such as the effect of imposed housing moratoriums and the delivery rate before and after any such moratoriums.

The assessment of a local delivery record is likely to be more robust if a longer term view is taken, since this is likely to take account of the peaks and troughs of the housing market cycle.

**Table 2** below sets out net housing completions in the borough from 2001/02.

	Leicestershire			
	Structure	Regional		
	Plan (2005)	Plan (2009)		
	annual	annual		completions
	average	average		against
				annual
2001/02	485	340		145
2002/03	742	340		402
2003/04	421	340		81
2004/05	583	340		243
2005/06	454	340		114
2006/07	438		450	-12
2007/08	398		450	-52
2008/09	474		450	24
2009/10	353		450	-97
2010/11	227		450	-223
2011/12	373		450	-77
2012/13	227		450	-223
2013/14	480		450	30
2014/15	752		450	302
2015/16	585		450	135
			<b>Total</b>	792

6.13 With reference to the Guidance, this 15 year monitoring period (2001/02 to 2015/16) is a 'longer term view' and will "take account of the peaks and troughs of the housing market cycle." During this period the borough's annual average housing delivery requirement was met on 9 occasions. From 2009/10 - 2012/13 the annual average was not met. The lower delivery during those 4 years can be explained by the national housing market downturn rather than a lack of deliverable housing sites in the borough. Indeed, the most recent year experienced an over-supply compared with the housing requirement (+135 houses). Overall, there is an over-delivery of 792 houses.

- 6.14 Over a long period of time (15 years), there has not been a 'persistent under-delivery of housing' in the borough and so the 5% buffer applies at this time. The 5% buffer is added to the annual housing requirement (5% of 489 dwellings), equating to an additional 24 dwellings per year. This 5% buffer, added to the annual requirement of 489 dwellings per year to address the shortfall, equates to an annual requirement of at least 513 dwellings per year for the next five years till 31 March 2021 (totalling 2,565 dwellings over this period).

#### Deliverable Sites Included in the Five-Year Supply

- 6.15 Wainhomes (South West) Holdings Limited and SoSCLG (25<sup>th</sup> Match 2013) Case no CO/12207/2012 addresses the matter of what constitutes a deliverable site, as defined by footnote 11 of the Framework. Furthermore, the Guidance at Paragraph: 031 [Reference ID: 3-031-20140306] states:

*What constitutes a 'deliverable site' in the context of housing policy?*

*Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within five years.*

*However, planning permission or allocation in a development plan is not a prerequisite for a site being deliverable in terms of the five-year supply. Local planning authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out. If there are no significant constraints (e.g. infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a five-year timeframe.*

*The size of sites will also be an important factor in identifying whether a housing site is deliverable within the first 5 years. Plan makers will need to consider the time it will take to commence development on site and build out rates to ensure a robust five-year housing supply.*

## Site Assessment

- 6.16 For each large and small site with extant planning permission (including a resolution to grant) an initial assessment on deliverability was made. This assessment included specific site knowledge from HBBC, judgement on market conditions, the size of the site and recent build rates in the borough. Each initial assessment was sent to the relevant landowner/developer/agent to give them the opportunity to confirm their agreement of the initial assessment or amend accordingly. On all letters sent to the landowner/developer/agent it states that if no response is received it is presumed that the Council's trajectory and assumptions are correct. The initial assessment of deliverability was then amended to reflect the responses received.
- 6.17 In Wainhomes, it was held that *"Being 'available now' is not a function of (a) being a suitable location for development now or (b) being achievable with a realistic prospect that housing will be delivered on the site within five years and that the development of the site is viable."* Clearly, whether something is "available now" is not a bright line rule – it is a matter of judgment. For example, a site without planning permission cannot be lawfully developed tomorrow, but that does not prevent it from coming forward within the five years and thus being included within the supply. Moreover, HBBC has considered removing potential sites that were not started and removing sites where construction has started but not progressed over an extended period, for example if there are legal or physical impediments hindering progress. Two small sites are discounted by HBBC during the site assessment stage, due to the Council's concerns about their deliverability (Woodfields 119 Sapcote Road and Manor Farm, Twycross Road). Similarly, two more sites have been discounted by HBBC from the Site Allocations DPD supply table (HIN13 and HIN148).

## Discounts

- 6.18 HBBC applies local evidence about the non-implementation of planning permissions, as found in the Residential Land Availability Monitoring Statement 2015/16. This *"assessment of the local delivery record"* (my emphasis) meets the test of Guidance (paragraph 033). This latest review of non-implementation justifies a 4.3% discount on large sites (those sites where development has not commenced) and an 8.8% discount on small sites (those sites where development has not commenced). In the absence of evidence to the contrary, any other figures would be arbitrary and unreliable.

### Barwell Sustainable Urban Extension

- 6.19 The Guidance at Paragraph: 031 [Reference ID: 3-031-20140306] states “*Deliverable sites for housing could include those that are allocated for housing in the development plan and sites with planning permission (outline or full that have not been implemented) unless there is clear evidence that schemes will not be implemented within five years.*”
- 6.20 Policy 3 of the Core Strategy has allocated a Sustainable Urban Extension to the west of Barwell. This will include 2500 dwellings, 15 hectares of employment, shops, a new primary school and children’s centre.
- 6.21 The SUE at Barwell is also allocated in the adopted Earl Shilton and Barwell Area Action Plan (2014) (The AAP). The AAP was the subject of Examination in March/April 2014 and was adopted in September 2014 following receipt of the Inspector’s Report in August 2014.
- 6.22 Planning application ref 12/00295/OUT involved 2,500 new dwellings etc and was subject to a resolution to grant outline planning permission in April 2013. The application returned to committee in March 2015 following an affordable housing viability study. The application is at an advanced stage to complete the Section 106 agreement and for permission to be issued under delegated powers. Its contribution to the supply of housing in the next five years was accepted by the Markfield Road inspector and SADMP inspector.
- 6.23 Not all of the dwellings allocated at Barwell SUE have been included in the five year supply. An assumption was made that work would commence in the 2018/19 monitoring year and therefore based on information supplied by the developer, only 360 of the 2500 dwellings have been included in the five year housing land supply figure.

### Earl Shilton Sustainable Urban Extension

- 6.24 Policy 2 of the Core Strategy 2009 has allocated a Sustainable Urban Extension to the south of Earl Shilton. This will include 2000 dwellings, 10 hectares of

employment, shops, a new primary school and children's centre. The SUE at Earl Shilton is also allocated in the adopted Earl Shilton and Barwell AAP.

- 6.25 Not all of the dwellings allocated at Earl Shilton SUE have been included in the five year supply. Based on information supplied by the developer it has been the assumption that work would commence on the site within the monitoring year 2018/19 and a total of 260 dwellings out of the allocated 1600 dwellings are included within the five year housing land supply.

#### Site Allocations and Development Management Policies DPD

- 6.26 The Council refers to deliverable housing sites included in the Site Allocations and Development Management Policies DPD. Their deliverability is examined with reference to information supplied by land owners/agents. Six of the sites now have planning permission (HIN16, HIN17, BAG03, NAI02, NAI03 and 14/00136/FUL).
- 6.27 On the matter of deliverability, in Wainhomes, it was held that "*planning permission is not a necessary prerequisite to a site being 'deliverable'*" but that "*where sites are in contemplation because of being included in an emerging policy document....and the document is still subject to public examination, that must increase the lack of certainty as to outcome....in the absence of site specific evidence, it cannot be either assumed or guaranteed that sites so included are deliverable when they do not have planning permission and are known to be subject to objections.*" The Guidance at Paragraph: 031 [Reference ID: 3-031-20140306] states "*If there are no significant constraints (e.g. infrastructure) to overcome such as infrastructure sites not allocated within a development plan or without planning permission can be considered capable of being delivered within a five-year timeframe.*"
- 6.28 Evidence regarding the deliverability of each site is provided in the Submission DPD. HBBC did not receive objection to the deliverability of these sites during the draft DPD consultation exercises. Furthermore, HBBC conducted an exercise in response to the Inspector's Issues and Matters letter to check again the deliverability of all sites within the Submission DPD (with and without planning permission) with the landowners/developers.

- 6.29 One site included by the Council as deliverable is HIN02 “land west of Hinckley.” This site is subject to an outline planning application submitted on 27<sup>th</sup> February 2015 for 850 houses and a full planning application on 20<sup>th</sup> May 2015 for 243 houses.

Housing supply – conclusion

- 6.30 At paragraph 49 the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.31 The Council will produce evidence, on a case-by-case basis, to justify the deliverability of sites without planning permission. This evidence is sufficiently robust to satisfy the tests of deliverability as set out in the Wainhomes judgement and PPG and satisfied examination in the recent Ratby and Sherborne Road inquiries and SADMP inquiry.
- 6.32 The overall position at 1 April 2016 (the latest calculation of housing land supply) as stated in Table 1 is a supply of 2998 deliverable dwellings within the borough, equating to an over-provision of 433 dwellings when compared to the housing requirement of 2,565 dwellings over the next five years. This equates to a housing supply of 5.84 years including a 5% buffer. The LPA reserves the right to provide an updated housing supply calculation in advance of the public inquiry (which is scheduled to start on 14<sup>th</sup> March 2017), and notes the Appellant reserves the same right.

**Housing delivery in Bagworth and Thornton 2006-2026**

- 6.33 Table 1 of the Core Strategy (2006-2026) sets out the “current housing supply” for the borough; that is, the housing supply in 2009 when the Core Strategy was adopted.

Bagworth

<b>Bagworth</b>	
<b>Housing Requirement</b>	
(a) Number of dwellings to be allocated in Core Strategy	Minimum of 60
(b) Alterations: Difference between developable sites (at Core Strategy Position) and developable sites at 1 April 2016 (no. of dwellings)	6
(c) Expired permissions	9
<b>Total</b>	<b>75</b>
<b>Housing Supply</b>	
(d) Completions since 1 April 2009 (not included as a commitment in the Core Strategy) (no. of dwellings) (net of demolitions)	59
(e) Existing Permissions (at 1 April 2016) (no. of dwellings) (not committed in the Core Strategy) (including sites pending S106 agreement)	61
<b>Residual Housing Requirement=(a+b+c)-(d+e)</b>	
<b>-45</b>	

Thornton

<b>Thornton</b>	
<b>Housing Requirement</b>	
(a) Number of dwellings to be allocated in Core Strategy	0
(b) Alterations: Difference between developable sites (at Core Strategy Position) and developable sites at 1 April 2016 (no. of dwellings)	0
(c) Expired permissions	0
<b>Total</b>	<b>0</b>
<b>Housing Supply</b>	
(d) Completions since 1 April 2009 (not included as a commitment in the Core Strategy) (no. of dwellings) (net of demolitions)	3
(e) Existing Permissions (at 1 April 2016) (no. of dwellings) (not committed in the Core Strategy) (including sites pending S106 agreement)	11
<b>Residual Housing Requirement=(a+b+c)-(d+e)</b>	
-14	

- 6.35 The Thornton Allocations Plan has THO02PP. This allocation is planning permission ref 13/00566/EXT for 8 dwellings at Manor Farm, Main Street, Thornton, located within the settlement boundary.

**Impact on the spatial vision for Hinckley and Bosworth borough**

- 6.36 The Decision Notice for 16/00311/OUT refers to the development “*not being in accordance with the council’s aspirations for development as set out within the Local Plan...*” The Local Plan 2006-2026 is a suite of four Plans, of which one is the Core Strategy. The Core Strategy Key Diagram illustrates the spatial strategy of the borough on page 25. Development is to be focused upon urban areas (Hinckley, Burbage, Barwell and Earl Shilton), followed by Key Rural Centres, Rural Villages and Rural Hamlets. Spatial Objective 5 on page 20 of the Core Strategy is “*The focus*

*of development will be in and around the Hinckley urban area, with more limited development in the rural areas to meet local needs.”*

- 6.37 At paragraph 4.31 and Policy 10 of the Core Strategy, Bagworth and Thornton are grouped together as “Key Rural Centres within the National Forest”. These two are a ‘cluster’ of villages, which, according to paragraph 4.32 of the Core Strategy, have a population to support services, but very few services have materialised, despite significant housing growth at Bagworth. The Core Strategy states *‘The purpose of designating these villages as Key Rural Centres is to assist in securing services to ensure this cluster fulfils its potential’*. (paragraph 4.32)
- 6.38 At a borough level, the proposal is contrary to the urban focus of the Core Strategy. Despite being a modest number of houses (48), the proposal directs residential development to a rural area rather to the Hinckley urban area and two Sustainable Urban Extensions. Paragraph 4.5 of the CS states *“a proportion will also be distributed to the rural areas of the borough to accommodate their particular development needs.”*
- 6.39 To amplify this point, the LPA refers to “Land at Hinckley Road, Stoke Golding 10/00408/OUT appeal ref APP/K2420/A/10/2138596”. This proposal involved a proposal for about 60 houses. It is a pre-Framework decision but nevertheless, has parallels to this appeal proposal. Despite the absence of a 5-year supply of housing land in 2010, the appeal was dismissed. Like Thornton, Stoke Golding is a Key Rural Centre. At paragraphs 18 to 21 the inspector found that *“As things now stand, the minimum addition of 60 dwellings identified in policy 11 has...already been exceeded.....this scheme would undermine the Core Strategy and conflict with the policy setting out the spatial vision for Stoke Golding.”* In this case, there is no housing allocation for Thornton and 14 houses are built or committed in Thornton during the Plan period (2006-2026).
- 6.40 Comments made by the Stoke Golding Inspector at paragraph 19 about “damaging consequences for the Strategy” also apply to this appeal proposal. Taking into account a shortfall in housing land supply in 2010, the inspector wrote *“First, it would imply that a shortfall due partly to the inherent difficulties of developing awkward urban sites and of instigating schemes in the ‘sustainable urban extensions’ could be rectified by redirecting development to rural areas. Second, the repetition of similar schemes in other ‘key rural settlements’ would clearly have the potential to*

*significantly alter the planned distribution of housing between urban and rural places. Third, the proposal would imply a preference for development on green-field and rural, rather than on brown-field and urban, sites, thereby further undermining the urban focus of the Strategy.”*

- 6.41 It is not the case that housing development is unacceptable in principle at Thornton during the plan period (2006-2026). Policy 7 sets out how Key Rural Centres can fulfil their roles and provide key services to their rural hinterland. Housing development will be supported within the settlements boundaries, or through Local Choice or Rural Exceptions Sites adjacent to the settlement boundary to meet a local need. Specifically, Policy 7 states that *“To support the Key Rural Centres and ensure they can provide key services to their rural hinterland, the council will: support housing development within settlement boundaries that provides a mix of housing types and tenures as detailed in Policy 15 and Policy 16.....”*
- 6.42 However, the appeal site lies outside of the defined settlement boundary for Thornton, as shown in the very recently examined and adopted Site Allocations and Development Management Policies DPD. The appeal proposal does not lie within a Key Rural Centre settlement boundary and nor is it a Local Choice or Rural Exception development. Therefore the proposal is contrary to the spatial vision of Policy 7. In the Inspectors Report on the Site Allocations Examination, the Inspector states that *‘...bearing in mind that the Council states that it intends to undertake a full review of its Local Plan in the short-term, and also that I consider that a five year housing land supply can be maintained for the remainder of the Plan period, I do not consider that it is either necessary or appropriate to make any further new allocations of land through this Plan. The correct vehicle for assessing the suitability of potential sites will be through a full Local Plan Review when there can be full consultation with local communities and stakeholders.’* This confirms the approach taken in the Core Strategy and reinforces the need for development to come forward through the local plan process.
- 6.43 Policy 10 of the Core Strategy sets out 12 criteria that the Council will adhere to when considering development at Bagworth and Thornton. As the proposal is at Thornton, it is unable to contribute to provision of local services at Bagworth (bullet point 1). Bullets 2 and 3 are not relevant as they relate to the Bagworth housing allocation and employment proposals respectively. The appeal proposal addresses National Forest planting requirements (bullet 4) by virtue of setting aside 20% of land

for woodland planting. The appeal proposal will not contribute to an improved community centre for Bagworth (bullet 5). A children's play area and informal open space is being provided on-site with a financial contribution towards Thornton Reservoir Open Space; however, this mitigates the impact of 49 houses on local recreation facilities (bullets 6 and 7). The proposal does not provide for improved access to Thornton Reservoir (bullet 8). The proposal is not relevant to the Charnwood Forest Regional Park (bullet 9). The proposal does not deliver any safe cycle routes (bullet 10). The proposal will not impact on the land at Bagworth safeguarded for the railway station (bullet 11). There is no opportunity to seek car parking improvements at the Reservoir from this proposal (bullet 12).

- 6.44 Overall, due to its location at Thornton, the appeal proposal does not contribute to improving services at Bagworth, which is the priority of Policy 10 (paragraph 4.40). This objective includes an allocation of a minimum of 60 new housing units, improved services (a shop, post office and primary care provision) and supporting additional employment provision at Bagworth. Housing development at Bagworth shall meet the needs of Bagworth, to either support the established local services or provide new services. Therefore, the strategy of Policy 10 focuses new development at Bagworth in order to improve the facilities there. There is no development focus at Thornton. The Core Strategy does not provide for any allocations of land for employment or housing at Thornton. This is a clear spatial strategy decision. The proposal fails to create a "new sense of place" at Thornton and does not *"transform these former mining villages into Forest Settlements within woodland settings, providing the local services to their populations and those of the surrounding rural hamlets/hinterland."* (CS paragraph 4.40).
- 6.45 The residual housing requirement for Bagworth currently stands at minus 45; that is, 45 houses more than the minimum allocation of 60 homes. Thornton does not have a Core Strategy housing requirement and has a residual housing requirement of minus 14 homes. There is no policy requirement to deliver more housing at Thornton but Policy 7 allows scope for housing at Thornton within the settlement boundary.
- 6.46 The appeal proposal will yield 20 affordable homes. This is a benefit of the development as it will go towards meeting affordable housing needs. The Core Strategy identifies the urban area of Hinckley and the two SUEs as the focus for residential development in the borough and they constitute more sustainable locations for affordable housing than at Thornton. This strategy to direct homes to

reflect local needs is consistent with the Framework's policies for sustainable development, for example paragraphs 54 and 55 which emphasise the need to be '*responsive to local circumstances*' and plan housing development '*to reflect local needs*' and promote development where it would '*enhance or maintain the viability of local communities*'. Thornton's market and affordable housing needs are limited, were not sufficiently great to require a housing allocation in the Core Strategy and are being met by committed sites at Bagworth and Thornton:

- 14/00426/OUT Mixed use of up to 61 dwellings and employment units. Resolution to grant subject to S106 obligation on 30 June 2015. That development includes 10 affordable units. Bagworth.
- 13/00903/FUL will deliver 2 affordable units. Bagworth.
- 13/00566/EXT for 8 dwellings, including 3 affordable units. Manor Farm, Main Street, Thornton.

6.47 The LPA does not identify harm to existing infrastructure and facilities in Thornton. The proposed development lies in a sustainable location and is within reasonable walking distances of a range of facilities, including a primary school, pub, community centre and convenience store. Yet the facilities are limited, reflecting its status as a village rather than a town or urban area, and there are no significant employment sites. There are benefits to the proposal, notably the delivery of market housing, affordable housing, construction jobs, New Homes Bonus and a children's play area. The development will incorporate 20% woodland planting and landscaping (0.43ha in this instance). More houses will help to support existing services in Thornton. These benefits are set out in more detail in the committee report and the application was recommended for approval. The proposed financial contributions towards education, highways and health are to mitigate the impact of this proposal on services and facilities in the locality and should not be construed as benefits.

#### **Harm to the countryside**

6.48 On the other hand, the proposal has a tangible local harm, deriving from the loss of a greenfield site. At paragraph 17 of the Framework, a core planning principle is to "*take account of the different roles and character of different areas...recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.*" That is what the development plan does, and the reason the development boundaries are, as they are. The role of different areas as being more

appropriate for the provision of market and affordable housing has been recognised in the adopted development plan.

- 6.49 On 27 March 2015 Minister of State for Housing and Planning, Brandon Lewis MP, wrote a letter to the Chief Executive of the Planning Inspectorate (PINS) to highlight several recent appeal cases in which harm to landscape character has been an important consideration in the appeal being dismissed. The Ministerial letter emphasises one of the core principles within the NPPF (paragraph 17) that *'plans and decisions should take into account the different roles and character of different areas, and recognise the intrinsic character and beauty of the countryside.'*
- 6.50 SADMP Policy DM4: Safeguarding the Countryside and Settlement Separation has replaced Policy NE5 of the Local Plan. The policy states that the countryside will "first and foremost" be safeguarded from unsustainable development, and that development proposals will be considered appropriate where one of 5 criteria are met, and all of a further 5 criteria are met. The appeal proposal does not meet any of the first 5 criteria and therefore the following 5 criteria are not relevant. Moreover, of the following 5 criteria, the proposal will "have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside." Therefore the proposal is contrary to DM4.
- 6.51 The replacement of an attractive green field located on the west side of Thornton with 48 houses, roads, cars, street lighting, fencing and other residential paraphernalia will harm its rural character and beauty. The public right of way (R85) will be become urbanised.
- 6.52 The Council's position is supported by the Markfield Road inspector, which like this appeal field involved "ordinary countryside", lacking any particular landscape or strategic designation. He concludes *"that the development would amount to a substantial extension of built development into open countryside, harmful to the character and appearance of the landscape, and would conflict with 'saved' Policies RES5 and NE5 of the Hinckley and Bosworth Local Plan 2001."* This decision was challenged in court (Cawrey Ltd v SoS for CLG [2016] EWHC 1198) and the appeal decision was upheld.

## **7. DEVELOPER CONTRIBUTIONS**

- 7.1 Paragraphs 203 and 204 of the NPPF set out the Government's policy in respect of planning obligations and, in particular, provide that planning obligations should be:
- necessary to make the proposed development acceptable in planning terms;
  - directly related to the proposed development; and
  - fairly and reasonably related in scale and kind to the proposed development.
- 7.2 Equivalent legislative tests are contained within the Community Infrastructure Levy (CIL) Regulations 2010.
- 7.3 The committee report and the late items paper explain the level of developer contributions expected in this case. The Council has no reason to believe the appellant will not complete an acceptable Section 106 agreement before the close of the inquiry and reserves the right to make further submissions should that not be the case.

## **8 KEY DOCUMENTS**

1. Core Strategy 2009
2. Site Allocations and Development Management Policies DPD
3. SADMP inspectors report
4. Land south of Markfield Road, Ratby APP/K2420/W/15/3003301
5. Cawrey Ltd v SoS for CLG [2016] EWHC 1198
6. Land off Sherborne Road, Burbage APP/K2420/W/15/3004910
7. Land at Hinckley Road, Stoke Golding APP/K2420/A/10/2138596
8. The SADMP Inspector's final report published on 17 May 2016.
9. Housing supply tables