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Steve Atkinson MA(Oxon) MBA FIoD FRSA
Chief Executive

Date: 05 December 2011



Hinckley & Bosworth
Borough Council

A Borough to be proud of

To: **Members of the Planning Committee**

Mr DM Gould (Chairman)	Mrs WA Hall
Mr R Mayne (Vice-Chairman)	Mrs L Hodgkins
Mr RG Allen	Mr JS Moore
Mr JG Bannister	Mr LJP O'Shea
Mr PR Batty	Mr BE Sutton
Mr DC Bill	Miss DM Taylor
Mr CW Boothby	Mr R Ward
Mrs T Chastney	Ms BM Witherford
Mr WJ Crooks	

Copy to all other Members of the Council

(other recipients for information)

Dear Councillor,

There will be a meeting of the **PLANNING COMMITTEE** in the Council Chamber, Council Offices, Argents Mead on **TUESDAY, 13 DECEMBER 2011** at **6.30 pm** and your attendance is required.

The agenda for the meeting is set out overleaf.

There will be a meeting for members of the Planning Committee in the Members' Room (Annexe) at 6.00pm.

Yours sincerely

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

Rebecca Owen
Democratic Services Officer

PLANNING COMMITTEE - 13 DECEMBER 2011

A G E N D A

1. APOLOGIES AND SUBSTITUTIONS
2. MINUTES (Pages 1 - 6)
To confirm the minutes of the meeting held on 15 November 2011.
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. TOWN & COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED
(Pages 7 - 122)
Schedule of planning applications attached.
8. BURBAGE CONSERVATION AREA STATEMENT AND MANAGEMENT PLAN (Pages 123 - 128)
Report of the Deputy Chief Executive (Community Direction) attached. The appendices to the report can be accessed on the website (as part of the agenda document) or in the Members' Room.
9. LAND AT STRETTON CROFT, WATLING STREET, BURBAGE (Pages 129 - 136)
Report of the Deputy Chief Executive (Community Direction) attached.
10. APPEALS LODGED AND DETERMINED (Pages 137 - 144)
Report of the Deputy Chief Executive (Community Direction) attached.
11. APPEALS PROGRESS (Pages 145 - 146)
Report of the Deputy Chief Executive (Community Direction) attached.
12. DELEGATED DECISIONS ISSUED (Pages 147 - 154)
Report of the Deputy Chief Executive (Community Direction) attached.
13. ANY OTHER ITEMS OF BUSINESS WHICH THE CHAIRMAN DECIDES HAVE TO BE DEALT WITH AS MATTERS OF URGENCY

Agenda Item 2

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

PLANNING COMMITTEE

15 NOVEMBER 2011 AT 6.30 PM

PRESENT: Mr DM Gould - Chairman
Mr R Mayne – Vice-Chairman
Mr RG Allen, Mr JG Bannister, Mr PR Batty, Mr DC Bill, Mr CW Boothby,
Mrs T Chastney, Mr WJ Crooks, Mrs WA Hall, Mrs L Hodgkins, Mr JS Moore,
Mr BE Sutton, Miss DM Taylor, Mr R Ward and Ms BM Witherford

In accordance with Council Procedure Rule 4.2 Councillors Mr SL Bray, Mr DW Inman, Mr MR Lay and Mr K Morrell were also in attendance.

Officers in attendance: Tracy Miller, Michael Rice and Simon Wood

197 APOLOGIES AND SUBSTITUTIONS

Apologies for absence were submitted on behalf of Mr O'Shea with the substitution of Mrs Smith for Mr O'Shea authorised in accordance with Council Procedure Rule 4.1.

198 MINUTES

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

RESOLVED – the minutes of the meeting held on 11 October be confirmed and signed by the Chairman.

199 DECLARATIONS OF INTEREST

Mr Gould, Mrs Hall, Mrs Hodgkins, Mr Mayne, Miss Taylor and Mrs Witherford declared a personal interest in application 11/00693/FUL.

Mr Mayne declared a personal interest in application 11/00719/OUT.

Mr Gould declared a personal interest in application 11/00788/DEEM.

200 DECISIONS DELEGATED AT PREVIOUS MEETING

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

- (i) 11/00571/FUL – viability issues were being resolved before the decision being referred to the Secretary of State;
- (ii) 11/00597/FUL – the decision had been issued on 20 October;
- (iii) 11/00581/EXT – the decision had been issued on 3 November.

201 TOWN & COUNTRY PLANNING ACT 1990 - APPLICATIONS TO BE DETERMINED

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

- (a) 11/00360/OUT – business technology campus comprising replacement MIRA headquarters, office, research and manufacturing facilities, hotel and local facilities including retail / café / restaurant, indoor and outdoor leisure, ancillary energy generation plant / equipment, internal access roads, car parking, landscaping drainage and associated works and creation of new improvement access points, widening of A5, associated earth works and landscaping (outline: access only) (cross boundary application with north Warwickshire Borough Council) (departure from the Development Plan) (EIA development), MIRA Ltd, Watling street, Caldecote, Nuneaton – MIRA Technology Park Ltd

On the motion of Mr Mayne, seconded by Mr Bill, it was unanimously

RESOLVED –

- (a) the Secretary of State be notified, pursuant to the Town and Country Planning (Development Plans and Consultation) (Departures) Directions 1999 (the Directions), that the Local Planning Authority is minded to grant planning permission subject to the conditions set out in the officer's report and late items and subject to the receipt of an undertaking pursuant to Section 106 of the Town and Country Planning Act to secure off-site cycle network improvements;
- (b) if the Secretary of State does not notify the Local Planning Authority within the time frame set out in the Directions that he intends to issue a direction, then the Deputy Chief Executive (Community Direction) be granted authority to approve the application in accordance with (a) above.
- (b) 11/00693/FUL – Change of use of land for the provision of four mobile homes, The Poplars, Watling Street, Hinckley – Mr John Calladine

On the motion of Miss Taylor, seconded by Mr Batty, it was

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

- (c) 11/00602/FUL – Demolition of existing dwelling and the erection of six dwellings with associated access, Bungalow, 4 Pipe Lane, Orton on the Hill – Mrs P Taylor

Notwithstanding the officer's recommendation that the application be permitted, Members felt that the proposed development had a detrimental impact on the character of the village, presented a danger to pedestrians, would increase car journeys due to lack of public transport and was not in a sustainable location. It was moved by Mr Batty and seconded by Mr Moore that the application be refused due to not being in accordance with policies BE7, BE19, NE5, BE1, PPS1, PPS17 and PPG13.

The Head of Planning requested that voting on this motion be recorded. The vote was taken as follows:

Mr Allen, Mr Batty, Mr Bill, Mr Boothby, Mrs Chastney, Mr Crooks, Mr Gould, Mrs Hall, Mr Mayne, Mr Moore, Mrs Smith, Mr Sutton, Miss Taylor, Mr Ward and Ms Witherford voted FOR the motion (15);

There were not votes against the motion.

Mr Bannister and Mrs Hodgkins abstained from voting.

The motion was therefore declared CARRIED and it was

RESOLVED – the application be refused for the following reasons:

1. In the opinion of the Local Planning Authority the massing of the proposed dwellings would result in a scheme which dominates the surrounding area, which is considered to be harmful to the character and appearance of the surrounding area and to the detriment of the character and appearance of the Conservation Area. It is therefore considered contrary to Saved Policies BE1 and BE7 of the adopted Hinckley and Bosworth Local Plan, Policy 13 of the adopted Hinckley and Bosworth Core Strategy and Planning Policy Statement 5.
2. In the opinion of the Local Planning Authority the proposal results in a scheme which occupies a site which acts as a visual break between buildings which contributes to the special character of the area contrary to Saved Policy BE19 of the adopted Hinckley and Bosworth Local Plan
3. In the opinion of the Local Planning Authority the scheme fails to provide any definitive pedestrian improvements along Pipe Lane which would lead to increase dangers for pedestrians.
4. In the opinion of the Local Planning Authority the site is located in an un-sustainable location, remote from key services and public transport whereby journeys would be reliant upon private car journeys contrary to Planning Policy Statement 1, Planning Policy Statement 7 and Planning Policy Guidance 13.
5. In the opinion of the Local Planning Authority the applicant has failed to demonstrate that sufficient suitable affordable housing would be provided, contrary to central government guidance contained within Planning Policy Statement 3, Circular 5/05, Policies 15 and 16 of the adopted Hinckley and Bosworth Core Strategy and the Supplementary Planning Document on Affordable Housing.

(d) 11/00603/CON – Demolition of existing dwelling and the erection of six dwellings with associated access, Bungalow, 4 Pipe Lane, Orton on the Hill, Atherstone – Mrs P Taylor

Further to the refusal of permission with regard to application 11/00602/FUL (above), it was moved by Mr Bill, seconded by Miss Taylor and

RESOLVED – the application be refused for the following reasons:

In the opinion of the Local Planning Authority in the absence of an approved, acceptable scheme of re-development, the demolition of the dwelling in the Orton on the Hill would create an unsightly gap in the street frontage contrary to Saved Policy BE8 of the adopted Hinckley and Bosworth Local Plan.

- (e) 11/00764/FUL – Partial demolition of existing buildings to form a refurbished office and dwelling and the erection of one new dwelling, 128 Main Street, Markfield – Mr Sean Lyall

Further to the amended recommendation in the late items that the application be refused, it was moved by Mr Crooks, seconded by Mr Bannister and

RESOLVED – the application be refused for the reasons contained in the late items.

- (f) 11/00765/CON – Partial demolition of meeting hall to facilitate development, 128 Main Street, Markfield – Mr Sean Lyall

Further to the amended recommendation in the late items that conservation area consent be refused, it was moved by Mr Crooks, seconded by Mr Boothby and

RESOLVED – conservation area consent be refused for the reason contained in the late items.

At this juncture the meeting adjourned at 8.45pm and reconvened at 8.55pm.

- (g) 11/00793/GDOT – Prior notification of proposed development by telecommunications code system operators for telecommunications installation, Three Pots Road, Burbage – Vodaphone UK Ltd and Telefonica UK Ltd

Notwithstanding the officer's recommendation that the application be approved, Members expressed concern regarding the application. On the motion of Mr Mayne, seconded by Mr Bill, it was moved that the application be refused due to its height, insufficient screening, visual impact, detriment to the character of the area and lack of evidence regarding investigation of other sites and site sharing options.

The Head of Planning requested that voting on this motion be recorded. The vote was taken as follows:

Mr Allen, Mr Bannister, Mr Batty, Mr Bill, Mr Boothby, Mrs Chastney, Mr Crooks, Mr Gould, Mrs Hall, Mrs Hodgkins, Mr Mayne, Mr Moore, Mrs Smith, Mr Sutton, Miss Taylor, Mr Ward and Ms Witherford voted FOR the motion (17).

There were no votes against the motion and no abstentions. The motion was therefore declared CARRIED and it was

RESOLVED – the application be refused for the following reasons:

1. The proposal would, by reason of its height, insufficient screening and poor design, result in the proposed installation being unacceptably prominent within the streetscene and on the skyline resulting in an unsatisfactory visual impact, detrimental to the character and appearance of the area and neighbours amenity, contrary to the requirements of policy BE1 of the adopted Hinckley and Bosworth Local Plan.
2. Due to the lack of detail regarding alternative sites and site sharing options, the applicant has failed to demonstrate that he has adequately undertaken a satisfactory investigation of other sites which may be technically suitable and would have less impact on the surrounding area and streetscene, in accordance with the

At this juncture, having reached 9.20pm, it was agreed to continue the meeting to 10pm in accordance with Council Procedure Rule 9.

- (h) 11/00794/GDOT – Prior notification of proposed development by telecommunications code system operators for telecommunications installation, Rugby Road, Burbage – Vodaphone UK Ltd and Telefonica UK Ltd

On the motion of Mr Crooks, seconded by Miss Taylor it was

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

- (i) 11/00795/GDOT – Prior notification of proposed development by telecommunications code system operators for telecommunications installation, Hinckley Road, Burbage – Vodaphone UK Ltd and Telefonica UK Ltd

On the motion of Mrs Hall, seconded by Mr Mayne, it was

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

Messrs Boothby, Inman and Ward left the meeting at 9.35pm.

- (j) 11/00719/OUT – Erection of four dwellings (outline – access and layout only), Land, St Marys Court, Barwell – Tony Morris & Sons

On the motion of Mr Gould, seconded by Miss Taylor, it was

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

- (k) 11/00797/FUL – Erection of dwelling and detached garage, Land rear of 69 Butt Lane, Hinckley – Mr & Mrs David Hughes

On the motion of Mr Crooks, seconded by Miss Taylor, it was

RESOLVED – the application be permitted subject to no new significant material objections being received prior to the expiry of the consultation period on 9 November 2011 and to the conditions contained in the officer's report.

- (l) 11/00788/DEEM – Alterations to shop fronts, 20-30 High Street, Barwell – Mr Alan Davies

It was

RESOLVED – the application be permitted subject to no new significant material objections being received prior to the expiry of the consultation period on 11 November 2011 and to the conditions contained in the officer's report.

202 APPEALS LODGED AND DETERMINED

A summary of appeals lodged and determined since the last meeting was submitted. It was

RESOLVED – the report be noted.

203 APPEALS PROGRESS

A schedule was submitted to the Committee indicating the stages that various appeals against planning decisions had reached. It was

RESOLVED – the report be noted.

204 DELEGATED DECISIONS ISSUED

Details of delegated decisions issued were presented to Members. It was

RESOLVED – the report be noted.

(The Meeting closed at 9.45 pm)

PLANNING COMMITTEE

13 December 2011

**RECOMMENDATIONS OF DEPUTY CHIEF EXECUTIVE
(COMMUNITY DIRECTION)**

ON APPLICATIONS FOR DETERMINATION BY

THE PLANNING COMMITTEE

BACKGROUND PAPERS

Background papers used in the preparation of these reports are filed in the relevant application files, unless otherwise stated

PLANNING COMMITTEE AGENDA - 13 December 2011 - NUMERIC INDEX

REF. NO.	APPLICANT	SITE	ITEM	PAGE
11/00368/FUL	Taylor Wimpey UK Limited	Land Adjacent To Greyhound Stadium Nutts Lane Hinckley	01	02
11/00761/FUL	Western Power Distribution	Former Emesite Nutts Lane Hinckley	02	47
11/00818/FUL	Mr Brian Sutton	Sycamore Farm 29 Main Street Barton In The Beans	03	57
11/00850/EXT	Mr T Clinton	Unit 3 Station Road Industrial Estate Station Road Market Bosworth	04	68
11/00687/FUL	Mr Jon Higgins	The Chestnuts 25 Mount Road Hinckley	05	77
11/00757/FUL	Ms Fran Muddimer	National Grid Brick Kiln Street Hinckley	06	89
11/00755/FUL	Mrs Margaret Ashby	Land Markfield Lane Thornton	07	97
11/00892/COU	Mr John Roberts	Chief Executives Office Upper Bond Street Hinckley	08	107

Item: 01
Reference: 11/00368/FUL
Applicant: Taylor Wimpey UK Limited
Location: Land Adjacent To Greyhound Stadium Nutts Lane Hinckley
Proposal: ERECTION OF 84 DWELLINGS INCORPORATING ACCESS, PUBLIC OPEN SPACE, BALANCING POND, PUMPING STATION AND ASSOCIATED EARTHWORKS, LANDSCAPING, CAR PARKING AND OTHER ANCILLARY WORKS
Target Date: 18 August 2011

Introduction:-

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

Application Proposal

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

The application proposes 84 dwellings consisting of 15 two bedroomed units; 60 three bedroomed units; 3 four bedroomed units and 6 two bedroomed flats over garages. The application includes 17 affordable units (a 20% contribution) consisting of 12 social rented and 5 shared ownership dwellings. There is a mix of detached, semi-detached and terraced dwellings of 2, 2.5 and 3 storey proportions proposed on site.

A new access is proposed to the east of the site from Nutts Lane and car parking is interspersed within the site to provide at least 1 car parking space per dwelling. A pumping station and balancing pond are proposed to the south western corner of the site and swales are in linear blocks through parts of the site (swales are a sustainable drainage solution in the form of a low level ditch). Public open space is proposed to the north of the site bordering Ashby Canal, with landscaping to the south and interspersed within the site.

During the course of the application the following have been received:-

- a) Revised layout plan - showing alterations to the canal frontage to include a reduction in the number of car parking spaces immediately adjacent to Plots 24-33 and 41-49 and an increase in vegetation and soft landscaping, amendments to car parking allocation; extension of two footpaths to link up with the southern footpath; indicative positioning of a footbridge to the south east corner of the site; widening of access above house type F1, widening of access drive adjacent to plot 1;
- b) Alterations to house types – addition of chimney stacks; depiction of obscure glass windows; additional garage elevations (Plots 83 and 84); re- positioning of garages and windows within House Type F (Plots 6, 16, 36, 37, 72, 79), additional windows within Plot 6; Plot 16 and 79 access width widened; removal of quadruple garage from the scheme (garages serving Plots 11-14); additional side windows within House Type X (Plots 61, 65, 70);

c) Phasing plan – showing the delivery on the scheme in eight phases;

Given the relatively minor alterations of the layout and house types, no re-consultation has been undertaken.

d) Road adoption plan, safety audit and associated designers response;

e) Additional drainage details and plans.

Re-consultation has been undertaken with the Director of Environment and Transport (Highways) and the Head of Community Services (Land Drainage).

Following additional letters of representation and responses from the applicant, throughout the determination of the application, re-consultation has been undertaken with the Director of Environment and Transport (Highways) and the Head of Community Services (Land Drainage).

f) A further plan showing the widening of the footway over the canal bridge to a minimum width of 0.9 metres, the removal of existing signs and edge of carriageway white lines to be tied in.

Re-consultation has been undertaken with the Director of Environment and Transport (Highways).

Site and Surrounding Area

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

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

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

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

Technical Documents submitted with the application

The application has been accompanied by a draft S106 agreement.

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

Air Quality Assessment

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

Arboricultural Survey

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

Archaeological Desk Based Assessment

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

Design and Access Statement

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

Ecology Appraisal

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

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

Flood Risk Assessment

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

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

Landscape and Visual Appraisal

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

Noise Assessment

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

Planning Statement

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

Statement of Community Engagement

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

Transport Assessment

The assessment details that the access provision to the development will be via a staggered crossroads from Nutts Lane which was previously agreed to by LCC. Details of the potential vehicle movements to and from the immediate site as well as the impacts upon the wider road networks have also been considered with the following findings:-

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

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

Travel Plan

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

Additional Information

The applicant has provided responses to a number of concerns raised, during the course of the application:-

Highways and Traffic – The applicant states that the various traffic related issues, including the signalised pedestrian crossing of the canal bridge, have been fully considered by Leicestershire County Council Highways who have no objection to the application and there are no issues that would prevent the connection of the site with the towpath.

Flood Risk and Drainage – The applicant has approached Crest Nicholson on the adjacent site to enable a connection to be made. However, the applicant states that Crest are continuing to hold out for a commercial position over the development and therefore the pumped solution on which the application has been based was therefore their only deliverable and commercially viable solution to enable development of the site. The applicant states that the drainage solution has been designed to accommodate the storage required in both the 1 to 100 year plus 30% climate change storm event and that the pumped solution has been agreed by the Environment Agency and Severn Trent Water have also confirmed their willingness to adopt the pumping station. The applicant also provided additional information to state that the outstanding issues would be addressed through the detailed design/technical approval process and that the swales are to be adopted by the Borough Council as provided within the draft S106 Agreement.

Public Open Space – The applicant states that the existing equipped play area within the Waterside Park development also lies within 400 metres of the site and the contribution could legitimately be applied to additional equipment there.

Integration with Surrounding Development - The applicant states that connection to Waterside Park and the former Greyhound Stadium is not possible due to strips of land being retained by Crest Nicholson in order to provide a further commercial position over the development. The applicant also refers to the fact that the planning permissions for the adjacent developments did not include a requirement to provide such connections to the boundary and as such they cannot be delivered under this planning permission.

Noise and Disturbance – The applicant acknowledges that whilst the Noise Assessment did not specifically assess the surface water pumping station, the potential impact on adjacent properties is minimal as all plant will be provided within the acceptable specification and will in any event, be located below ground and that provision of noise attenuation fencing to the pump station compound will provide an enhanced level of attenuation.

Pedestrian Movements – The applicant states that the application included a proposal to improve the traffic signals at the Nutts Lane canal bridge that would enable an 'all red' traffic phase that would enable the safe passage of pedestrians to cross the bridge as well as improving the existing traffic conditions, but that Leicestershire County Council Highway

Authority were not able to justify the proposed improvements due to the absence of any personal injury accidents and the small level of increase in the numbers of pedestrians on this section of the highway as a result of the development.

Following further assessment by Leicestershire County Highway Authority, the applicant was then willing to consider making a contribution towards the County Council's more recent preferred solution for the construction of a new pedestrian footbridge, providing this was not worded to prevent the occupation of the development, as the applicant would be reliant upon works that they consider outside of their control. The applicant re-confirms that the proposed 'all red' signalised crossing is the most appropriate and deliverable solution.

History:-

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

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

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

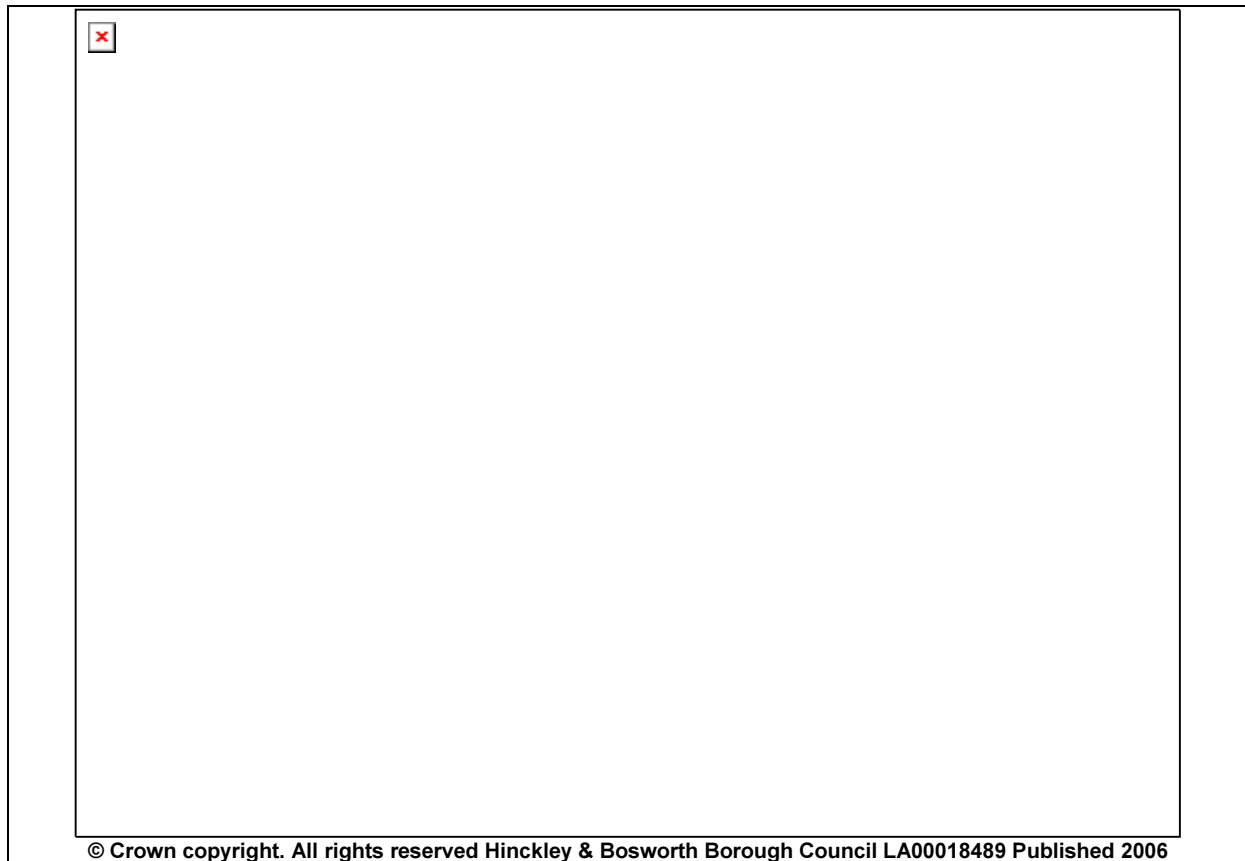
- a) whether, having regard to prevailing policy and housing land supply, there are material considerations that would be sufficient to outweigh the general presumption against development in the countryside
- b) the impact of the proposed development on the character and appearance of the surrounding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

The discussions within the appeal were as follows:-

- a) The site is designated as countryside in the Local Plan. 117 dwellings would bring some economical impacts to Hinckley but those would not justify development being permitted under Policy NE5 so the development conflicted with the Local Plan and Structure Plan
- b) The appellant claimed the area was no longer open countryside following Crest Nicholson development but the inspector saw that the area was still semi rural and less obscured than the nearby Crest Nicholson and Industrial Estate so the development would change the area to wholly urban
- c) This development would also go against government guidance by allowing 117 dwellings here it would discourage brownfield sites being identified elsewhere
- d) It fell outside the settlement boundary and the boundary can not be altered through the appeal process
- e) The Council's reason for refusal relating to noise from the nearby industrial estate, particularly Morris and Sons, greengrocer, could be overcome through mitigation measures such as the design/layout of those dwellings most affected.

The Inspector concluded that "The appeal site is in a Greenfield location outside of the defined settlement boundary of Hinckley, in an area where policy restricts development to that with an essential rural justification. In addition, to the general presumption against

development in the countryside, I have concluded that the development of the land for housing, as proposed, would harm the character and appearance of the surrounding area and the setting of the Ashby Canal Conservation Area. Bearing in mind the advice at paragraph 69 of PPS 3, and the existence of a 5-year supply of deliverable housing sites in the Borough, there are, on balance, insufficient material considerations to outweigh the conflict with policy in this case. I find that the proposed development is, accordingly, unacceptable.”



Consultations:-

No objection has been received from:-

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

No objection subject to conditions/recommendations have been received from:-

Ashby Canal Association
The Inland Waterways Association
British Waterways
Environment Agency
Severn Trent Water Limited
Leicestershire Constabulary Crime Reduction Officer
Directorate of Chief Executive, LCC (Ecology)
Director of Environment and Transport (Highways)
Head of Business Development and Street Scene Services (Waste Minimisation)

Head of Community Services (Land Drainage)
Head of Community Services (Pollution).

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

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

British Waterways have no objection to the scheme, subject to the imposition of planning conditions, including the retention of the existing hedgerow, hard and soft landscaping proposals including details of protective fencing during construction, and a lighting scheme. British Waterways have also confirmed that they would expect the Local Highway Authority, Local Authority or the developer to fund any necessary improvements to the towpath to the north west of the site as a designated safe route to school.

The Environment Agency have no objection, providing conditions are imposed to ensure the development is carried out in accordance with the Flood Risk Assessment, a scheme for surface water drainage for the site and details of trapped gullies are first submitted to and approved by the Local Planning Authority.

Severn Trent Water have no objection subject to the imposition of planning conditions and have confirmed that they would, in principle, be prepared to adopt the pumping station provided it meets both their and the Water Industries standards and would be able to confirm this upon receipt of plans and specifications.

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

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

The Director of Environment and Transport (Highways) latest revised observations recommends approval, subject to a number of on and off-site related conditions including highways improvements to Nutts Lane and the canal bridge, upon which the recommendations in the report are now based. Updated observations are expected once a Safety Audit in relation to the widening of the footway over the canal bridge have been reviewed.

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

The Head of Community Services (Land Drainage) has re-confirmed that the construction and operational details of the swales and attenuation basin are satisfactory, is satisfied that the failure of the pumped outlet control will not lead to the flooding of the development and that there is in principle adoption for the landscaping and Sustainable Urban Drainage Systems (SUDS) features and pumping station.

The Head of Community Services (Pollution) states that in respect of air quality the accompanying air quality assessment is based upon traffic figures and therefore dependent upon the Highways Authority accepting the predicted traffic flows. As such, should the figures be changed the assessment must be revised and that the recommendations of the noise survey should be adhered to. Therefore the Head of Community Services (Pollution) recommends conditions to secure a construction environmental management plan, specifications in windows to reduce noise and passive acoustic ventilation measures.

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

- a) Director of Children and Young Peoples Services (Education) states that in respect of primary schools there are a number of schools within a two mile walking distance but that overall there is a deficit and a request for a contribution for the Primary School sector of £229,881.19 is sought. No contribution is being sought for high school given an overall surplus for the area. In relation to upper schools, a deficit of 8 places is created by the development resulting in a contribution of £146,841.28
- b) Director of Environment and Transport (Civic Amenity) states that the development would generate additional civic amenity waste at the Barwell Civic Amenity site a contribution of £3,883 is sought
- c) Director of Adults and Communities (Libraries) in respect of additional users of the existing library facilities at Hinckley Library on Lancaster Road a contribution of £5,140.00 is sought
- d) Director of Environment and Transport (Highways) states that travel packs at £50.18 can be supplied by Leicestershire County Council equating to £4,215.12; the provision of 6-month bus passes (2 application forms to be included in each Travel Pack to be funded by the developer at £331.20 with an estimated maximum 25% uptake equating to £13,910.00) and £9,348.00 for two bus shelters at the two nearest bus stops
- e) Chief Executive (Ecology) does not request any financial contributions.

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

British Waterways requests a contribution of £125,000.00 towards towpath widening and surfacing and replacement of the existing bank protection with hard wearing geotextile bank. Following re-consultation British Waterways have sought a total of £45,000.00 for towpath widening and surfacing only.

The Leicestershire Constabulary Crime Reduction Officer originally sought a total contribution of £32,864.00 and requested the following:-

- a) Street signs and a smartwater property marketing kit - a contribution of £1,260.00 is sought
- b) Speed gun to be used on the beat – a contribution of £2,500.00 is sought
- c) 2 x digital lamppost mounted speed sign – a contribution of £6,000.00 is sought
- d) 2 x automatic number plate recognition cameras - £14,000 is sought (plus maintenance fees of £450 over five years) totalling £18,500.00
- e) 2 x mobile data terminals – a contribution of £4,040.00 is sought

f) Cycle equipment – a contribution of £544.00 is sought.

Following re-consultation the Leicestershire Constabulary Crime Reduction Officer has now confirmed that a developer contribution will no longer be sought.

The Head of Corporate and Scrutiny Services (Green Spaces) has requested £174,364.67 for the provision and maintenance of formal open space and children's equipped play space and the maintenance of informal children's play space and £30,526.84 for the maintenance of the adopted landscaping areas.

Site notice and Press notice were displayed and neighbours notified.

19 original letters of objection were received within the statutory consultation period raising the following concerns:-

- a) the reduction from 100 dwelling to 84 should not warrant a reason for approval
- b) loss of farm land; the last green open space will be destroyed
- c) the 'sheep field' offers an open, safe play field away from vehicles in a health environment and is the final green field left in the area; the council have acknowledged this in previous applications
- d) no provision for a woodland or playing field or park in the area; this site could have been used for recreational purposes
- e) the final green area will destroy any opportunity for the local community to fund raise for help
- f) area is overdeveloped already; the development would have far less effect in other locations in Hinckley
- g) lead to a lowered quality of life
- h) open aspects from properties will be lost; loss of view; reduction in property price as a result of loss of view
- i) loss of privacy and overlooking from 2.5 and 3 storey properties directly opposite; the hedge along the western boundary is insufficient to deter overlooking
- j) request amendment to site layout to have the proposed housing fronting the western boundary or re-location of the Play and Open Space or balancing pond
- k) development adds no benefit to the area; no public social infrastructure has been provided; no benefits have been made by the developer
- l) "significant financial contributions are being given to the council backhanders"; "bribes;"
- m) the balancing pond area should not be considered as part of the provision of open space; problems over future adoption
- n) site is on a flood plain; drainage problems; further flooding is likely
- o) the hydraulics of the ditch and associated culverts have not been assessed in its entirety to determine suitability from site discharge to watercourse outfall; unable to demonstrate a satisfactory drainage strategy to ensure the Crest Nicholson development to the south will not be at risk from flooding; insufficient detail and further investigation required into the proposed outfall
- p) Insufficient evidence in terms of future maintenance of the pumping station and emergency procedures to be put in place for failure of the system
- q) balancing pond can be dangerous to the public and subject to flash flooding and not fenced off
- r) there should be no public access to the tow path due to children and danger
- s) size of the proposed development will impact on the ecology and wildlife of the site
- t) detract from tourism
- u) no assessment undertaken of the potential noise and disturbance from the pumping station
- v) unable to secure a financial contribution towards the equipped play space at the Crest Nicholson development as not within the ownership of the Borough Council

- w) the scheme does not make sufficient provision for green space and play provision in accordance with Policy 19 within the core strategy
- x) does not integrate with the surrounding development; no alternative vehicular and pedestrian access arrangements
- y) Flood Risk Assessment and Drainage Strategy are insufficiently detailed.

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

- a) does not provide a safe vehicular access
- b) no cycle provision made on the towpath; towpath is very narrow and can be dangerous for pedestrians and cyclists; developer should be required to upgrade the towpath
- c) access from Nutts Lane is flawed, contrary to PPG13 and PPS3
- d) existing insufficient road capacity; already at full capacity; if the Nutts Lane/Coventry road junction is acknowledged to be operating outside acceptable levels currently then how can the development not have a significant effect on it?
- e) impact of volume of pedestrian and vehicular traffic from site (and adjacent developments) leading to congestion and impacts and creation of 'rat run'
- f) impacts over volume of traffic upon the Nutts Lane Canal Bridge and wider impacts upon the A5 and Coventry Road junctions; traffic in the surrounding area should be re-routed; block off Nutts Lane from the A5
- g) widening of canal bridge required; insufficient width for pedestrians and cyclists; no footpath over the canal bridge; are estimated walking times taking pushchairs/disabled users into consideration
- h) the assessment does not comply with HA requirement for connectivity with neighbouring developments; alternative vehicular and pedestrian access arrangements into the site could be secured via Waterside Park Phase 2 to the west or the development being constructed on the Crest Nicholson site to the south
- i) current state of road surface of Nutts Lane is unacceptable and without considerable remedial work would not be able to withstand the increased usage
- j) 200 year old bridge could collapse; no or little attention has been given to the state of repair of the bridge; application should be put on hold until this action has been undertaken; Weight restriction should be added to the bridge; Bridge should be given higher conservation status
- k) the proposals to alter the traffic light sequence is ill conceived; how long will the 'all red traffic stage' be as part of the changes proposed to the traffic light sequence over the canal bridge? – as a pedestrian could find themselves caught between the bridge. This is a further problem for the disabled and pushchairs
- l) a pedestrian controlled light crossing is required; A separate footpath constructed or a footbridge on either side of the bridge with a ramp access is required
- m) canal bridge should be blocked off with removable bollards (and this would be easier than changing the traffic light sequence)
- n) why are studs being inserted into the road? And these are likely to be worn away very quickly
- o) it is not clear what mitigation measures will be carried out in respect of highway movements and safety; no information on any upgrade works to Nutts Lane and/or Nutts Lane/Coventry Road junction; if there are proposed off-site upgrade works proposed then local residents should be made aware and relevant plans/information provided
- p) regular maintenance to cut trees should be enforced to allow a better view of the road; Signage and traffic lights in themselves pose obstacles to foot traffic
- q) do not consider that a sophisticated form of control of the shuttle signals will overcome the 'platooning' problems
- r) nine vehicles, not the eight identified within the report
- s) increase in % of vehicle flows and the impact of this increase
- t) congestion is a material considerations and congestion amounts to a reason for refusal

- u) the TA does not quantify the likely number of additional pedestrians and cyclists who might use Nutts Lane
- v) the analysis of the effect of the traffic and the conclusions drawn from the TA are fundamentally flawed
- w) traffic generation is fundamentally flawed; concerns over the delay times identified
- x) has the applicant the right to connect directly from the site to the right of way to the towpath
- y) the towpath needs to be surfaced, lit, safe and suitable for use by people with mobility or visual considerations and needs to be available from the outset so that the very first residents have the benefit of being able to use this route
- z) removing the road studs and relying on pedestrians having to 'call' the pedestrian phase will not overcome the additional safety hazards
- aa) inability to provide tactile paving will be a major issue for the visually impaired
- bb) Crest Nicholson would be willing to make available pedestrian, cycle and vehicular links as reported on by Highways, subject to an appropriate commercial arrangement and that Taylor Wimpey has made no such approaches to Crest Nicholson to establish what such commercial arrangements may be.

A petition containing 79 signatures objecting to the scheme has been received but does not contain details of the specific reasons for objection.

County Councillors David Bill and Don Wright have written a joint letter, raising the following issues:-

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

Councillor David Bill has also provided details of a search (dated 25 January 2005) from a nearby property No.11 Canal Way which shows areas of "potentially infilled land (water)".

Following the expiration of the statutory consultation period, further letters of objection have been received raising the following concerns:-

- a) the paramount issue in this application should be the safety of the public who will walk across the bridge
- b) signs illustrating no footpath both face the same way – this is a large and inexcusable mistake
- c) HGV and articulated, 40 tonne vehicles use the bridge
- d) pedestrians have just 0.8 metres width; a footpath should be no less than 4 feet wide;
- e) no clear vision across the bridge
- f) width restriction should be enforced by County
- g) the A5 rail bridge and the Nutts Lane are the same
- h) the HGV's that cross the canal bridge have not been observed entering the industrial estate
- i) Nutts Lane is now and will remain a 'rat run'

- j) mistakes made at the time of the Crest Nicholson application; did not ensure they were required to provide improvement works to the canal bridge or footway.

Other letters have referred to solutions to the problems:-

- k) increase width of footway for pedestrians but also to restrict the vehicular width
- l) place a speed limit on traffic crossing the bridge – suggest 12mph
- m) have a pedestrian controlled light sequence (in combination with an increase footway)
- n) developer could be required to pay for these solutions
- o) re-surface Nutts Lane (north), add lower horizontal bar on fence east side and repair upper bar where required and fit signage at the wharf to state no through road
- p) install two fixed bollards at both the north and south of the canal bridge to pedestrianise it
- q) install pavement/footway on the west side of Nutts Lane (south) from base of bridge to railway bridge, widen roadway to conform to standard regulation width
- r) install lighting under the railway bridge
- s) paint edge of pavements white to improve visibility for pedestrians and vehicles
- t) remove throttle and widen roadway south of the railway bridge, install basic pedestrian road crossing where pavement discontinues on east side and begins on the west side
- u) alter priority junction of Nutts Lane (after routed south east) and Hammond Way to give Nutts Lane traffic priority to ease the flow of traffic
- v) install signage.

One letter has set out the existing and proposed dimensions of the canal bridge.

A further petition containing 11 addresses objects to the fact that Leicestershire County Council as Highway Authority are recommending approval and do not propose any safety improvements for pedestrians over the bridge and that Hinckley and Bosworth Borough Council are minded to approve the application.

Policy:-

National Policy Guidance

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

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

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

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

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

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

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

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

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' seeks to ensure that development in the countryside is sustainable, and that new building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled. The Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all. It goes on to say that all development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.

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

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

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

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

Planning Policy Guidance Note 24 (PPG24): 'Planning and Noise' guides Local Authorities on the use of planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

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

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress

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

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

Regional Policy

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's

case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies 'saved' from the Local Plans by the Secretary of State remain extant for determining applications.

Local Development Framework Core Strategy 2009

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

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

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

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

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

Hinckley and Bosworth Local Plan 2001

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

Policy NE5: 'Outside Development Limits' states that the countryside will be protected for its own sake. Planning permission will be granted provided that the development is important to

the local economy and cannot be provided within or adjacent to an existing settlement and where the proposal does not have an adverse effect on the character and appearance of the landscape; is in keeping with the scale and character of existing buildings and the general surroundings, is effectively screened by landscaping and will not generate traffic likely to exceed the capacity of the highway network or impair road safety.

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

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

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

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

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

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

Policy REC2: 'New Residential Development – Outdoor Open Space Provision for Formal Recreation' requires all new residential development to provide outdoor play space for formal recreation.

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

Policy NE14: 'Protection of Surface Waters and Groundwater Quality' seeks to protect the water environment.

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

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

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

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

Supplementary Planning Guidance/Documents

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

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

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

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

Other Material Policy Guidance

Draft Site Allocations and Generic Development Control Policies DPD 2009

The application site was publicised as a preferred option for residential development in the Draft Site Allocations and Generic Development Control DPD (February 2009). The Site Allocations Preferred Options Document was subject to public consultation during 2009. This does not however, provide justification for permitting development ahead of the plans adoption as explained in Para 17, of ODPM's Planning System General Principles guide. Concern is raised that permitting this site could be considered premature and potentially set a precedent for other sites coming forward, thus undermining the LDF process. It is considered that at present the Site Allocations Document carries little weight.

Strategic Housing Land Availability Assessment (SHLAA) Review 2010

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

Landscape Character Assessment July 2006

Notwithstanding the applicant's identification of the site being within the closet proximity to Area, the site is located within the Stoke Golding Vales Character Area (Area E). Area E covering Stoke Golding, Higham on the Hill, Dadlington and Stapleton is described as being distinctly rural and largely tranquil, of high sensitivity with limited capacity for change.

Ashby Canal Conservation Area Appraisal

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

Hinckley Town Centre Area Action Plan 2011

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

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

Appraisal:-

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

Principle of Development

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

Both Policy NE5 and RES5 of the adopted Local Plan seek to protect the countryside for its own sake and states that planning permission will only be granted for development that is important to the local economy, for the change of use of existing buildings or for sport and recreation. The proposed residential development does not meet any of these criteria.

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

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

Five Year Housing Land Supply

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

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

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

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

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

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

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

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

for considering applications including high quality design, mix, sustainability and efficient use of land.

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

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

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

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

Within the previous outline application (ref: 06/00786/OUT) the Inspector when dismissing the appeal concluded that "the existence of a 5-year supply of deliverable housing sites in the Borough, there are, on balance, insufficient material considerations to outweigh the conflict with policy in this case." The Planning Inspector also acknowledged that "the appeal site will at some time need to be allocated for housing in a future LDF document and it is important in order to ensure the effective, efficient and sustainable use of land, that the pattern of development is determined by the development plan and LDF process."

Since that time, the circumstances have been changed, Hinckley and Bosworth Borough Council have a shortfall in the overall five year housing land supply by 3 years and 7 months, and paragraph 72 within PPS3 states that Local Planning Authorities should not refuse applications solely on the grounds of prematurity.

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

Impact upon the Character and Appearance of the Countryside

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

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

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

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

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

For the reasons discussed later in this report, it is considered that the development would be carried out in accordance with the relevant development plan policies and central government guidance.

In respect of the issues raised by the Planning Inspector (ref: 06/000786/OUT), it is considered that since the previous outline refusal, the site is now largely bound by built development and the Inspector also acknowledged that the site could not be considered as 'open countryside'.

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

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

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

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

considered that the 2.5 and 3 storey proportions is considered to affect the local character of the canal's setting.

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

In summary, given the layout, design and natural landscape screening, it is considered that the development would preserve the character of the Ashby Canal Conservation Area. Accordingly the scheme is considered to be in accordance with Policies BE7 and REC6 of the Local Plan. The issues raised by the Inspector within the (ref: 06/00786/OUT) appeal stating that the proposal would harm the character and appearance of the surrounding area and the setting of the Ashby Canal Conservation Area are therefore considered to have been overcome within this scheme.

Overall Appearance

Density

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

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

Layout

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

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

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

The layout to the east of the site has ensured that dwellings are facing onto Nutts Lane, to create an aesthetical streetscene when viewing the site from Nutts Lane. On entering the site, units to the north (plots 17-20) also propose parking to the front, whilst those to the

south (plots 80-84) have parking provision to the rear. This ensures that parking does not dominate when entering the site. Given the orientation of plots in the centre of the site it appears as if 'car courts' have been created, however it is considered that this has been broken up by the addition of landscaping and vegetation.

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

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

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

Following concerns raised by officers and the concerns outlined by the Leicestershire Constabulary Crime Reduction Officer, during the course of the application an amended layout has been received. This shows alterations to the canal side frontage and Plots 24-33 and 41-49 and has reduced the number of car parking spaces immediately adjacent to the plots and increased the vegetation and soft landscaping throughout this area. It is considered that this revised scheme enhances the overall appearance of the public realm in this area, and the specific details of the hard and soft surfacing, appearance, construction, planting including species, sizes, densities, implementation and future maintenance are to be secured through the S106 agreement.

Affordable Housing Layout

Members should be aware that tenure split, design and location of affordable housing units within the scheme has been subject to extensive scrutiny. The scheme is set to provide three main clusters of affordable housing units, bordering the peripheries to the east, west and south of the site. The Council's Affordable Housing Officer is in full agreement with the current siting of the affordable housing units. Accordingly it is considered that the current siting of the affordable housing units should receive full support in this case.

Scale

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

The scheme proposes a range of flats, detached, semi-detached and terraced dwellings of two, three and four bedrooms which occupy fairly similar footprints within the scheme, but propose differing 2, 2.5 and 3 storey proportions. Given the range of residential types and

scales within the immediate vicinity, it is considered that the differing scales proposed add interest and ensures that the proportions do not appear out of scale or character within the surrounding setting.

Design

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

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

Hard Landscaping

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

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

Soft Landscaping

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

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

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

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

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

In summary, it is considered that following the amendments to the layout of the scheme on the canal side frontage that the schemes layout is acceptable. The range of flats, terraced, semi-detached and detached properties of 2, 3 and 4 bedroom configuration and 2, 2.5 and 3 storey proportions adds interest and provide strong attractive street scenes and improves the visual amenity of the site, softened by the variation in architectural detailing, materials, surfacing, boundary treatments, trees, landscaping and a well defined public focal point. It is however, as discussed above, necessary to secure the specific details of the public realm through the S106 in order to control the external appearance of this important area.

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

Impact upon Residential Amenity

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

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

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

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

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

Within this application the accompanying Noise Assessment concluded that the proposed dwellings (Plots 1-10 and 84) adjacent to Nutts Lane facing the industrial estate will require specific noise control measures. Properties with windows serving habitable rooms will need to provide minimum sound reductions, over and above that of the normal thermal double

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

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

An additional response has stated that the accompanying Noise Assessment does not undertake an assessment of the potential noise and disturbance from the proposed pumping station on neighbouring residential occupiers. Re-consultation has been undertaken with the Head of Community Services (Pollution) who requires an additional condition to secure these details.

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

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

As previously discussed the reason for refusal on the outline application (ref: 06/00786/OUT) relating to un-satisfactory living environment for the future occupiers of the proposed development by reason of noise, arising from the activities of existing businesses in close proximity to the site was reported by the Planning Inspector to be dealt with by way of appropriate conditions.

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

Highway Considerations; Access, Parking Provision, Highway Safety, Impact on the Local Highway Network, and Off-Site works.

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

Access

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

In response to letters of representation received stating that the proposed development has not been designed to integrate with the surrounding development, during the course of the application amended plans have been received to show extensions to footpaths fronting dwellings to the proposed footpath to the south of the site, in order to improve the permeability and legibility within the scheme and a footbridge to the south east corner of the site to link to an existing footpath on Nutts Lane, to improve permeability and ensure future occupiers minimise movements on the road network. In addition, the Director of Environment and Transport (Highways) states that direct vehicular, pedestrian, or cycle links cannot be delivered from the site to the Waterside Park of Crest Nicholson development due to the presence of third party land.

Parking Provision

All new dwellings are to be provided with at least one allocated car parking space. The majority of parking spaces are allocated within parking courts, although there are a number of garage units (with accommodation above) and single and detached garages interspersed throughout the site. Parking has been divided up within the scheme so that some is within the highway, to the front or side of the dwelling, although it is predominantly provided to the front of dwellings. The off-site parking levels are achieved without the inclusion of the garages and therefore the level of parking is welcomed.

Highway Safety

Most letters of representations have referred to the issue of pedestrian safety, and walking across the Nutts Lane canal bridge.

In respect of the controlled pedestrian 'all red' phase at the canal bridge, the Director of Environment and Transport (Highways) states that this introduction could have a significant impact on the queuing lengths/times of traffic and would not recommend that the proposed all red, on demand phase should be introduced at the existing traffic signals, and given the low proposed pedestrian flows it is not considered that the introduction of the controlled pedestrian phase could be justified. The Director of Environment and Transport (Highways) also states that on the basis of the speeds of vehicles and the absence of any personal injury accidents in the last 5 years, and the small level of anticipated increase in the number of pedestrians on this section of the highway that it is not considered that it would be possible to sustain a reason for refusal on the grounds of dangers to pedestrians.

During the course of the application, additional concerns have been raised regarding pedestrian safety and the feasibility of the erection of a free standing footbridge adjacent to the canal bridge was explored, but ultimately dismissed by the Director of Environment and Transport (Highways) as the need could not be justified and nor could a significant financial contribution be sought solely from the applicant in order for the footbridge to meet the tests as set out in the Community Infrastructure Levy Regulations. The Director of Environment and Transport (Highways) has re-confirmed that they have no provision in its works programme for such a bridge and therefore would be unable to ask the applicant to contribute towards a scheme which has no hope of proceeding in the current circumstances, or in the immediate future.

In addition, further designated walking to school routes have also been explored which has confirmed that the route via the Nutts Lane bridge would not be available as a walking route under their policy. The Director of Environment and Transport (Highways) has since confirmed that on the basis of an assessment, a route to the catchment primary and secondary schools via the canal towpath from the north-west corner of the site to Coventry Road is available throughout and would comply with the Council's Walking Routes to School Criteria. However, they have subsequently confirmed that on the basis of the impact on the likely numbers of additional pedestrians using this route, it was not possible to recommend any improvements to the towpath, as it would not be able to be demonstrated that they are necessary and justified. British Waterways have confirmed that this route and improvements would fall under the remit of Leicestershire County Highway Authority and therefore such a request would need to be made by them.

Since the controlled pedestrian 'all red' phase at the canal bridge, proposed by the applicant has been dismissed by the Director of Environment and Transport (Highways), the applicant has been committed to exploring alternative pedestrian routes, including making a contribution to a free standing bridge and also the widening of the footway over the canal bridge, as discussed later in the report.

Impact on the Local Highway Network

The Director of Environment and Transport (Highways) has explored the possibility of a LINSIG a software tool which allows traffic engineers to model traffic signals and their effect on traffic capacities and queuing and MOVA which is a hardware tool which analyses the sequencing of traffic signals to improve capacities, and refers to the positives and negatives of these systems in place at both the canal bridge and the Nutts Lane/Coventry Road junction.

As a result of the LINSIG works, (all scenarios modelled), the shuttle working at the canal bridge was considered to be working within the acceptable thresholds of capacity. In respect of MOVA it was considered that should a longer green phase be introduced that this could increase a 'platooning' effect (a number of vehicles travelling together) and increase the level of queuing.

The Director of Environment and Transport (Highways) also acknowledges that despite the submitted Transport Assessment stating that the junction of Nutts Lane and Coventry Road is operating outside of acceptable thresholds of capacity at p.m peak, it is not considered that the impact of the additional traffic as a result of the proposal (9 additional vehicles at p.m peak) could justify that signalisation be required.

In terms of the level of congestion, and the impacts of this, the Director of Environment and Transport (Highways) consider that on the basis of the existing level of traffic, the proposed increase cannot be considered to be material and a reason for refusal could not be sustained. Concerns have been raised in respect of the delayed times identified within the Transport Assessment, however regardless of delay on the basis of the existing level of traffic, the proposed increase cannot be considered to be material.

The Director of Environment and Transport (Highways) also refers to the difficulties in the connectivity and implementation of such mechanisms and as such considers that these schemes are unlikely to be deliverable.

Off-site works

As part of the Crest Nicholson development to the south of the site (former Greyhound Stadium), improvements to pedestrian facilities on Nutts Lane i.e. a new footway and new

crossing facilities between footways on the opposite sides of Nutts Lane and other footway improvements, were imposed via a condition and are currently under technical negotiation. In response to a letter of representation, it is acknowledged that canal bridge improvements were not required as part of the Crest Nicholson development, but other highway works were requested.

The Director of Environment and Transport (Highways) has similarly requested improvements via a condition, including the widening of the footway over the canal bridge for this application. As such in order to ascertain whether these works can be undertaken, the applicant has submitted an additional plan showing the widening of the footway over the canal bridge, which shows a width of 0.9 metres (at its narrowest point) which consequently reduces the carriageway width to 3 metres.

The Director of Environment and Transport (Highways) has no objection in principle, subject to the findings within a Safety Audit. The applicant is currently undertaking the Safety Audit and on receipt of their submission, the Director of Environment and Transport (Highways) representation will be reported on as a late item. A condition is to be imposed which requires the off-site works to be undertaken in accordance with the details within the additional plan, if formally accepted by the Director of Environment and Transport (Highways).

In response to the number of representations received proposing solutions, the minimum carriageway width should be 2.75 metres. As a result of the proposed widening of the footway, there would be a width of 3 metres to allow vehicular traffic and approximately 0.9 metres for pedestrians. No speed limit is set to be imposed on the bridge, and a safety audit is currently being undertaken to ascertain if other associated works are proposed, for example if additional signage along the footpath and within the vicinity are required or existing to be removed or re-sited.

Other matters

Letters of representation have been received questioning how the figure of 9 vehicular trips has been generated. The Director of Environment and Transport (Highways) has stated that the Transport Assessment is based on TRICS database and 2001 Census journey to work data and the proposal is likely to generate 458 in all trips, throughout a 24 hours day. In the 5-6 pm peak hour it is estimated that 52 trips will be generated, of these approximately 18 are departures from the site, of these 51.15% are expected to go through the junction of Nutts Lane and Coventry Road, equating to a total of approximately 9 trips to the junction.

In respect of the concerns raised by the state of the canal bridge, for the avoidance of doubt the canal bridge is owned by British Waterways and as such falls outside the remit of the Borough Council. The professional view of Leicestershire County Council is that the bridge is structurally sound and British Waterways have not requested a weight restriction order or signs. The Director of Environment and Transport (Highways) has re-confirmed that there is no weight limit on the canal bridge and therefore it is suitable to carry vehicles up to 44 tonnes.

Concerns have been expressed regarding restricting the width of the bridge to prevent Heavy Goods Vehicles (HGVs) from using it. The Director of Environment and Transport (Highways) does not support the restriction as it would restrict access to the industrial area, which is currently unrestricted from the northern approach using Nutts Lane over the canal bridge, but height-restricted from the southern approach along Nutts Lane by the rail bridge and would also be needed to ensure that alternative routes (although not an official diversion route) are available for traffic including HGVs should the A5 be closed. Other similar concerns have been raised regarding the HGVs and articulated lorries, however this is not a material planning consideration.

In summary, the Highways Agency has no objection to the scheme with regards to the impact upon the A5 Trunk Road. The Director of Environment and Transport (Highways) has concerns that the introduction of a controlled all red phase would have a significant impact on queuing lengths and times and would not recommend that this is introduced. The Director of Environment and Transport (Highways) also acknowledges that there is a perceived safety problem for pedestrians crossing the canal bridge, but with speeds of vehicles on this section of the highway (average speeds of 18.8 mph northbound and 27.7 mph southbound at the canal bridge) the existing level of pedestrians crossing the bridge and in the absence of any personal injury accidents in the last 5 years plus the current year to date, there is no evidence to suggest that there is a safety issue and therefore will not be raising any highway objections to the planning application, in terms of the existing pedestrian access over the canal bridge. The applicant is already committed to providing an increase in the width of the footway over the canal bridge, to alleviate some of the concerns raised. Accordingly, subject to the imposition of planning conditions the scheme is considered to be in accordance with Policies T5, T9 and T11 of the adopted Local Plan.

Developer Contributions and Affordable Housing Provision

The application proposes 84 residential units which attracts infrastructure contributions.

The general approach to developer contributions must be considered alongside the guidance contained within Circular 05/05 and more recently in the Community Infrastructure Levy Regulations 2010 (CIL). CIL confirms that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed.

Affordable Housing

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

The applicant has committed to providing 20% affordable housing within the draft Heads of Terms with a tenure split of 75 % for social rented and 25 % for shared ownership, which is in accordance with Core Strategy Policy 15. This equates to the provision of 17 affordable units; 12 for social rented and 5 for intermediate tenure.

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

The latest Housing Register in Hinckley (as of 28 November 2011) stated that 284 applicants were looking for 2 bedroomed properties, 94 looking for 3 bedroomed properties and 13 for 4 or more bedroomed properties. It is considered that there is a high demand within Hinckley and the provision in this development is welcomed.

It is considered that there is an identified need for a range of affordable units in Hinckley and as such it is considered necessary to provide them within this development. This scheme, falling on the outskirts of Hinckley, and providing a number of units which has triggered the request for affordable housing in line with Core Strategy Policy 15 is considered to be directly related. The amount and type requested is also considered fairly and reasonably related in scale and kind to the development proposed. It is therefore considered that the request for affordable housing requirements meets the requirements of the Community Infrastructure Levy (CIL) 2010.

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

Play and Open Space Contributions

Core Strategy Policy 19 and Saved Local Plan Policies REC2 and REC3 seek to deliver open space as part of residential schemes. Policies REC2 and REC3 are accompanied by the SPD on Play and Open Space and Green Space Strategy 2005-2010 & Audits of Provision 2007 (Update). In time it is intended that Policies REC2 and REC3 will be superseded by Core Strategy Policy 19 and the evidence base of the Open Space, Sport & Recreation Facilities Study once the Green Spaces Delivery Plan has been completed.

To date only the Open Space, Sport & Recreation Facilities Study has been completed and as such the evidence base is not complete to complement Policy 19. Accordingly, this application is determined in accordance with the requirements of Policies REC2 and REC3, SPD on Play and Open Space and the Green Space Strategy 2005-2010 & Audits of Provision 2007 (Update).

Informal (Un-equipped) Children's Play Space:- The application proposes to create an area of informal public open space within the site to the north bordering the canal. The Head of Corporate and Scrutiny Services (Green Spaces) has agreed in principle to the future adoption of this space subject to it being constructed and maintained to an acceptable standard. This has attracted a contribution of £35,445.87, based on the surface area for the maintenance as an informal children's play space.

Informal Equipped Children's Play Space:- A shortfall in the required provision of on site equipped children's play area means that an off site contribution is required. It has been identified that the application site is located within 400 metres of equipped place space at Waterside Park to the west of the site and as such a financial contribution will be secured against this site. A contribution of £60,933.60 is required for the provision and £29,694.00 for the maintenance. In addition, the Head of Corporate and Scrutiny Services (Green Spaces) has stated that the results from the draft PPG17 study undertaken in May 2010 scored this children's play area a quality percentage of 87% and access percentage 60%, however the Head of Corporate and Scrutiny Services (Green Spaces) confirms that a year on, the children's play area is already worn and would benefit from financial investment.

In response to the shortfall of on site equipped children's play area the Head of Corporate and Scrutiny Services (Green Spaces) has also submitted additional information confirming that it would be far more advantageous to secure two well equipped children's play areas with a wider range of diverse equipment and facilities, rather than the provision of three equipped play areas with basic equipment all in very close proximity to each other.

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

Cumulatively the development attracts contributions for play and open space of £174, 364.67

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

In response to the letter of objection stating the scheme does not provide sufficient provision for green space and play provision in accordance with Policy 19 within the core strategy, Policy 19 states that standards needs to be assessed according to their geographical context and that whilst on site provision for equipped play space and formal recreation is not provided within the site, local plan Policies REC2 and REC3 allow off- site financial contributions to be secured. It is considered that the scheme satisfies the requirements of Policies REC2 and REC3 of the adopted Local Plan.

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

Other Developer Contributions

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

- a) Director of Children and young Peoples Services (Education) requests £229,881.19 for the Primary School sector and £146,841.28 for the Upper School sector
- b) Director of Environment and Transport (Civic Amenity) requests £3,883.00
- c) Director of Adults and Communities (Libraries) requests £5140.00
- d) The Primary Care Trust requests £35,348.54
- e) British Waterways requests £45,000.00
- f) Director of Environment and Transport (Highways) states that a some of £4215.12 is required for travel packs, with the provision of 6-month bus passes (2 application forms to be included in each Travel Packs)– estimated maximum 25% uptake equating to £13,910.00 and £9348.00 for two bus shelters at the two nearest bus stops
- g) Landscaping has requested £30,526.84 for maintenance of the adopted landscaping areas.

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

- a) Affordable Housing – (17 units)
- b) Play and Open Space – (£174, 363.67)
- c) Education – (£376,722.47)
- d) Public Transport (£27,473.12 – minimum as based on 25% up take on bus passes)
- e) Canal towpath improvements (£45,000.00)
- f) Landscaping maintenance (£30,526.84).

A Section 106 agreement is under negotiation to secure the above mentioned financial contributions and provision of affordable housing units.

Drainage and Flood Risk

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

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

In respect of future adoption, the Head of Community Services (Land Drainage) has agreed in principle to the adoption of the balancing ponds and swales, subject to the adoption of the surface water pumping station. Severn Trent Water have confirmed that that they would, in principle, be prepared to adopt the pumping station provided it meets both their and the Water Industries standards and would be able to confirm this upon receipt of plans and specifications. A condition is imposed for the details of the pumping station to be submitted.

In response to the letters of objection concerning the un-satisfactory drainage strategy, the existing scheme has been considered by the Environment Agency, Severn Trent Water and the Head of Community Services (Land Drainage) all of whom have no objection to the scheme subject to the imposition of appropriate conditions. In response to the neighbouring letters of concerns regarding the inadequacies of the Flood Risk Assessment and Drainage Strategy the Head of Community Services (Land Drainage) has re-confirmed that the construction and operational details of the swales and attenuation basin are satisfactory, and is satisfied that the failure of the pumped outlet control will not lead to the flooding of the development and that there is in principle adoption for the landscaping and SUDS features and pumping station.

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

In response to the towpath and this being brought into use, British Waterways have sought £45,000.00 for widening and surfacing improvements and the delivery of this is being negotiated within the S106 agreement.

In response to Councillor Bill's land search, the Head of Community Services (Land Drainage) confirms that the dwelling in question, whilst facing the northern boundary of the site, is on the opposite side of the canal; and the only site in the locality where infilling and water have existed is the Crest Nicholson development.

Following further letters of representations raising drainage and flooding concerns, re-consultation has been undertaken with the Head of Community Services (Land Drainage) and for the avoidance of doubt and there has been no changes to their comments which supports the scheme, subject to the schemes compliance with the suggested conditions. Head of Community Services (Land Drainage) has also confirmed that the applicant is unable to restore a length of ditch until a blocked culvert is cleared and has instructed the applicant of the Crest Nicholson, former ground stadium to attend to the restoration of the

flow path by removing the obstruction from the length of their culvert and ditch as soon as possible.

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

Other Matters

Ecology and Biodiversity

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

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

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

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

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

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

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

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

Archaeology

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

Sustainability

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

Storage of Refuse/Recycling Facilities

The scheme has been considered by Head of Business Development and Street Scene Services (Waste Minimisation) who states that the collection point areas will not be suitable for servicing and that the designated areas on this drawing appear far too small and four of the points will be inaccessible to the Council's vehicles. As such, Head of Business Development and Street Scene Services (Waste Minimisation) has requested that a condition is proposed ensuring that details for waste and recycling storage across the site will first be agreed in writing by the Local Planning Authority. It is considered, however that the submitted plan shows the bin collection points at the highway and not from courtyards, shared accesses etc. and as such it is not considered necessary to impose a condition for these details.

Phasing of the Development

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

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

which up until this time is intended to be used for the sales car park. Phase seven proposes the construction of plots 58-69 the last of the affordable units with phase eight completing proceedings with the construction of plots 53-57.

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

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

The proposed phasing of this development seeks to deliver the development in eight phases, providing a balance of privately owner/occupied and those owned by the Registered Social Landlord and is considered to be acceptable. It is not considered to result in any detriment to the visual amenity or the safe and functional use of the site. The phasing of the development is being secured within the draft S106 agreement.

Conclusion

In conclusion, whilst the application site is outside the settlement boundary of Hinckley, where policies RES5 and NE5 apply, it is considered that the lack of 5-year housing land supply is a significant material consideration which could overcome these policy-based objections. This site would address part of the current shortfall within the Hinckley area and it is therefore considered that the site is currently acceptable for residential development. It is considered that the layout, design and mix of housing is considered acceptable and will provide a high quality scheme with strong attractive street scenes, a well defined public focal point and architectural detailing and the use of materials which reflects the locality. The scheme is also considered acceptable from a highway point of view and the S106 agreement is currently under negotiation. Subject to the acceptability of these it is recommended that planning permission be granted, subject to the imposition of planning conditions.

Within the previous outline application (ref: 06/00786/OUT) the Inspector when dismissing the appeal concluded that “the existence of a 5-year supply of deliverable housing sites in the Borough, there are, on balance, insufficient material considerations to outweigh the conflict with policy in this case.” The Planning Inspector also acknowledged that “the appeal site will at some time need to be allocated for housing in a future LDF document and it is important in order to ensure the effective, efficient and sustainable use of land, that the pattern of development is determined by the development plan and LDF process.”

Since that time, the circumstances have changed, the Council has an adopted Core Strategy with a commitment to providing a minimum of 1120 dwellings within Hinckley. In addition, Hinckley and Bosworth Borough Council have a shortfall of 750 dwellings, which results in a supply of just 3 years and 7 months, and whilst this alone does not legitimise the approval of inappropriate and non-preferable site, it is however in this case a significant material consideration. Whilst it would be preferable for the site to be considered in line with the LDF process, and be formally designated with the site allocations document, paragraph 72 within PPS3 states that Local Planning Authorities should not refuse applications solely on the grounds of prematurity.

The Inspector also concluded that the proposal would harm the character and appearance of the surrounding area and the setting of the Ashby Canal Conservation Area. Whilst there is

a presumption against development in the countryside, it is considered that the site is largely bound by residential development and therefore this site in context with the surrounding development does not represent a 'typical' rural countryside location. In addition, the scheme by virtue of its layout, design and landscaping is not considered to significantly impact upon the character and appearance of the setting and the Ashby Canal Conservation Area. It is therefore considered that the issues identified by the Planning Inspector within the previous outline application, have been overcome within this planning application.

RECOMMENDATION:- That subject to the execution of an Agreement under Section 106 of the Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972 towards the provision of affordable housing, the provision and maintenance of public and open space facilities, landscaping, education, canal towpath improvements; public transport provisions and public realm specifications the Deputy Chief Executive (Community Direction) be granted powers to issue full planning permission, subject to the conditions below. Failure to do so may result in the application being refused.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

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

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

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

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

Existing Site Topography Drawing No; No. Figure 2; Boundary Treatments and Site Furniture Indicative Image Sheet Drawing No's; L-05 Revision A; Landscape Softworks and Hardworks Plan-Sheets 1 to 4 Drawing No's; L-01 Revision D; L-02 Revision D; L-03 Revision D; L-04 Revision D received by the Local Planning Authority on 19 May 2011;
House Type A Drawing No's; A-01 Revision C; Drawing No; A-02 Revision C; Drawing No; A-03 Revision A; Drawing No; A-04 Revision A;
House Type B Drawing No's; B-01 Revision C; B-02 Revision D; B-03 Revision D; B-04 Revision A; B-05 Revision A; B-06;
House Type D Drawing No's; D-01 Revision C; D-02 Revision C; D-03 Revision D; D-04 Revision A; D-05 Revision A; D-06 Revision A;
House Type E Drawing No; E-01 Revision B; E-02 Revision C; E-03 Revision A;
House Type G Drawing No's; G-01 Revision A; G-02 Revision A;

House Type H Drawing No's; H-01 Revision C; H-02 Revision C; H-03 Revision B; H-04 Revision A;
 House Type W Drawing No's; W-01 Revision B; W-02 Revision C;
 House Type X Drawing No's; X-01 Revision C;
 House Type Y Drawing No's; Y-01 Revision B; Y-02 Revision C;
 Cycle Shed Drawing No's; CS-01; Single Garages Drawing No; GA-01 Revision A;
 Double Garages Drawing No; GA-03 Revision A received by the Local Planning Authority on 24 June 2011;
 House Type F Drawing No's F-02 Revision E; F-03 Revision B; received by the Local Planning Authority on 29 June 2011;
 House Type X Drawing No. X-02 Revision D received by the Local Planning Authority on 12 July 2011;
 Preliminary Surface Water Drainage Layout Drawing No. 60155775-CIV-PD-001 Rev C received by the Local Planning Authority on 18 July 2011;
 Site Location Plan Drawing No; LP-01 Revision A received by the Local Planning Authority on 26 July 2011;
 Materials Layout Drawing No; ML-01 Revision C; Phasing Plan Drawing No; PH-01 Revision B ; Site Sections – Sheets 1 and 2 Drawing No's; SC-01 Revision C; SC-02 Revision B; Street Elevation- Sheets 1 and 2 Drawing No's SE-01 Revision C; SE-02 Revision C received by the Local Planning Authority on 25 August 2011;
 Site Layout Drawing No; SL-01 Revision P; Road Adoption Plan Drawing No. RAP-01 Revision C; Adoption Plan of Canal Frontage Drawing No. RAP-02 Revision B; Adoption Plan of Swales Drawing No. RAP-03 Revision B; House Type F1 Drawing No's F1-01 Revision F and F1-02 Revision G received by the Local Planning Authority on 27 October 2011;
 Nutts Lane Canal Bridge Footway Widening Drawing No. GA-003 Revision B received by the Local Planning Authority on 21 November 2011.

- 3 Notwithstanding the submitted details, before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 Notwithstanding the submitted plans, prior to the commencement of any dwelling a detailed scheme of the external appearance of the proposed pumping station and programme of implementation shall first be submitted to and approved in writing by the Local Planning Authority, and the development shall be implemented in accordance with the approved scheme.
- 5 Notwithstanding the submitted plans, no development shall commence until a detailed scheme of the external appearance of the proposed footbridge in the south east corner, as identified on Drawing SL-01 Revision P, and programme of implementation is first submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme.
- 6 No development shall commence until such time as the proposed ground levels of the site and proposed finished floor levels have been submitted to and approved in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.
- 7 No development shall commence until details of a scheme to safeguard the existing hedgerow along the northern boundary (except where it is proposed to be removed to create pedestrian access to the towpath) of the site (including full details of protective

fencing to be erected) during construction of the development and programme of implementation have first been submitted to and approved in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved scheme.

- 8 Notwithstanding the submitted plans no development shall take place until full details of hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved details. These details shall include:-
 - a) Planting plans
 - b) Written specifications
 - c) Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
 - d) Maintenance schedule
 - e) Implementation programme
 - f) Areas to be grassed
 - g) Treatment of hard surfaced areas (including the footway access from the site to the adjacent canal towpath)
 - h) Details of the landscape management plans for the hedgerow to the northern boundary in its entirety.
- 9 The approved soft and hard landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.
- 10 Prior to the commencement of any dwelling, a Noise Impact Assessment for the proposed pumping station and programme of implementation shall first be submitted and approved in writing by the Local Planning Authority and the works shall be implemented in accordance with the approved details.
- 11 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 9 May 2011, Ref: 60155775/FRA/001 (including the mitigation measures detailed within it).
- 12 No development shall commence until a detailed scheme including drainage plans for the disposal of surface water and foul sewage have first been submitted to and approved in writing by the Local Planning Authority and these works shall be implemented in accordance with the approved scheme. The details shall include:-
 - a) A detailed Ground Investigation to ensure adequate geological, hydrological and ground conditions on the site
 - b) Surface water discharge from the site should be limited to the equivalent Greenfield rate of run-off (11.4 l/s)
 - c) The layout of the proposed development and the design of the new on-site surface water drainage system should allow for the excess run-off from an exceptionally intense local rainstorm to be confined for the duration of the storm within the site. As a surface water pumping station is proposed, the potential failure of the pump should be considered when modelling the extreme storm events

- d) The detailed design of the on-site surface water drainage system should take into account the possible effects of climate change on storm run-off over the next hundred years
 - e) The detailed design of the proposed SUDS features
 - f) Implementation Programme
 - g) Future adoption and management.
- 13 No development shall commence until a scheme to install trapped gullies or a suitable alternative has first been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme.
- 14 No development shall commence until a detailed construction environmental management plan has first been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme. The details shall include:-
- a) how, during the site preparation and construction phase of the development, the impact on local residents and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination
 - b) a plan showing how such controls will be monitored
 - c) procedure for the investigation of complaints.
- 15 No development shall commence on plots 1-10 inclusively and plot 84 until such a time as details of window specifications with sound reduction and passive acoustic ventilation, in accordance with the recommendations in the Noise Assessment and programme of implementation have first been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme.
- 16 No development shall commence until a scheme for the lighting of all roads, parking areas and open spaces adjacent to the northern boundary of the site, as identified on drawing RAP-2 Revision B and programme of implementation have first been submitted to and approved in writing by the Local Planning Authority and the development shall be implemented in accordance with the approved scheme.
- 17 Prior to the commencement of development, a Code for Sustainable Homes Design Stage Assessment demonstrating that the residential units hereby approved can be constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority. In addition, prior to the first occupation of the residential units hereby approved, a final certificate demonstrating that the residential units have been constructed to a minimum of Code Level 3 shall be provided to the Local Planning Authority.
- 18 The windows, as identified as obscure glaze on drawings no's A-02 Rev C; B-06; D-01 Rev C; D-02 Rev C; D-03 Rev D; D-04 Rev A; D-05 Rev A; D-06 Rev A; E-01 Rev B; E-02 Rev C; E-03 Rev A; F-01 Rev F; F-02 Rev E; F-03 Rev B; F1-01 Rev E; F1-02 Rev F; G-02 Rev A; H-02 Rev C; H-03 Rev B; H-04 Rev A; X-01 Rev C; X-02 Rev D; Y-01 Rev B; Y-02 Rev C shall be fitted with obscure glass and be non opening and retained this way thereafter.
- 19 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1; Classes A, B, C, D, F, G shall not be carried

out unless planning permission for such development has first been granted by the Local Planning Authority on plots 11-15; 24-33; 41-49 and 53.

- 20 The approved Residential Travel Plan (Final Rev 1, dated 4 May 2011, submitted by WSP UK) shall be implemented and reviewed in accordance with the approved details.
- 21 Before first occupation of each dwelling hereby permitted, appropriate pedestrian visibility splays in connection with the access serving that dwelling, in accordance with the details shown on drawing No. 19649 RAP-01 Rev C, shall be provided with nothing within those splays higher than 0.6 metres above ground level, in accordance with the current standards of the Highway Authority and shall be so maintained that way thereafter.
- 22 Prior to commencement of the development hereby approved, details of the design for off-site highway works on Nutts Lane being a new footway, new crossing facilities between footways on the opposite sides of Nutts Lane, widening of the existing footway across the canal bridge and other footway improvements shall be submitted to and approved in writing by the Local Planning Authority. The approved off-site highway works shall be completed prior to the first occupation of any dwelling hereby approved.
- 23 For the period of the construction of the development within the site, vehicle wheel cleansing facilities shall be provided within the site and all vehicles exiting the site shall have all tyres and wheels cleaned, as may be necessary, before entering the Highway.
- 24 For the period of the construction of the development, vehicle parking facilities shall be provided within the site and all vehicles associated with the development shall be parked within the site.
- 25 Before the first occupation of any dwelling hereby approved, its access drive and any turning space shall be surfaced with tarmacadam, concrete or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the Highway boundary and shall be so maintained at all times.
- 26 Before the first occupation of any dwelling hereby permitted, the respective car parking provision shall be surfaced, marked out and made available in accordance with Drawing No. SL-01 Revision P.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 To enable the Local Planning Authority to retain control over the external appearance, in the absence of submitted details to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.

- 5 To enable the Local Planning Authority to retain control over the external appearance, in the absence of submitted details to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 6 To ensure that the development has a satisfactory visual appearance to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 7 To protect the existing hedgerow during development in order to secure its retention as a wildlife habitat and to protect the character, appearance and biodiversity importance of the adjacent canal corridor and to preserve the character and appearance of the Ashby Canal Conservation Area to accord with Policies BE1, BE7 and REC6 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS5 and PPS9.
- 8 In the interests of visual amenity and to ensure that the proposed development contributes to the preservation and enhancement of the local character, distinctiveness and biodiversity importance of the waterway corridor and to preserve the character and appearance of the Ashby Canal Conservation Area, to accord with Policies BE1, BE7 and REC6 of the adopted Hinckley & Bosworth Local Plan.
- 9 In the interests of visual amenity, to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 10 To safeguard the amenities of surrounding residential dwellings and future occupiers of the proposed dwellings, in the absence of submitted details to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 11 To prevent flooding by ensuring the satisfactory storage of/ disposal of surface water from the site; to reduce the impact of flooding on the proposed development and future occupants and to reduce the risk of flooding to the proposed development and future occupants to accord with Policy NE14 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS25.
- 12 To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem, protect the water quality, minimise the risk of pollution and ensure future maintenance of the surface water drainage system to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan and guidance contained within PPS25.
- 13 To protect the water environment to accord with Policy NE14 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS25.
- 14 To safeguard the amenities of surrounding residential dwellings and future occupiers of the proposed dwellings to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 15 The premises are close to industrial units and a noise attenuation measures are required to safeguard the amenities of future occupiers of the plots identified, to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 16 To minimise the problems of glare, show consideration for bats and to avoid unnecessary light pollution which could adversely affect the character and appearance of the Ashby Canal Conservation Area to accord with Policies BE7 and REC6 of the adopted Hinckley & Bosworth Local Plan and guidance contained within PPS5 and PPS9.

- 17 In the interests of sustainable development to accord with Policy 24 of the adopted Hinckley and Bosworth Local Development Framework Core Strategy.
- 18 To safeguard amenities of neighbouring properties to accord with Policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 19 To ensure that the approved dwelling does not have an adverse impact upon the amenities of occupiers of nearby dwellings or on the visual impact upon the area, to accord with Policies BE1 and BE7 of the Hinckley & Bosworth Local Plan.
- 20 To ensure that adequate steps are taken to provide a transport choice/a choice in mode of travel to and from the site to accord with Policy T11 of the adopted Hinckley and Bosworth Local Plan.
- 21 In the interests of pedestrian safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 22 To ensure a satisfactory form of development and in the interests of pedestrian safety to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 23 To reduce the possibility of deleterious material (mud, stones etc) being deposited in the highway and becoming a hazard for road users to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 24 To ensure that adequate off-street parking provision is made to reduce the possibilities of development of the site leading to on-street parking problems in the area during construction to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 25 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 26 To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

- 5 This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.
- 6 The applicant/developer is advised to contact the Works Engineers Team at the Fazeley Office on 01827 252000, in order to ensure that any necessary consents are obtained and the works are compliant with the current British Waterways' "Code of Practice for Works affecting British Waterways. The proposed development includes provision of new accesses to British Waterways land (towpath adjacent to the northern boundary of the Application Site). Such access will require the prior consent of British Waterways including a commercial agreement. Please contact the Estates Team at the Fazeley Office on 01827 252000 for further advice.
- 7 Vehicular and pedestrian crossing of the proposed swales should include culverts designed in accordance with CIRIA document C689, in order to prevent blockage of the swales/surface water drainage system.
- 8 During the period of construction, oil and fuel storage will be subject to the Control of Pollution (Oil Storage) (England) Regulations 2001. The Regulations apply to the storage of oil or fuel of any kind in any kind of container which is being used and stored above ground, including drums and mobile bowsers, situated outside a building and with a storage capacity which exceeds 200 litres. A person with custody or control of any oil or fuel breaching the Regulations will be guilty of a criminal offence. The penalties are a maximum fine of £5000 in Magistrates' Court or an unlimited fine in Crown Court. Further details of the Regulations are available from the Environment Agency.

Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.
- 9 If the roads within the proposed development are to be adopted by the Highway Authority, the Developer will be required to enter into an agreement under section 38 of the Highways Act 1980 for the adoption of the roads. Detailed plans will need to be submitted and approved, the agreement signed and all sureties and fees paid prior to the commencement of development.

If an Agreement is not in place when the development is to be commenced, the Highway Authority will serve APCs in respect of all plots served by all the roads within the development in accordance with Section 219 of the Highways Act 1980. Payment of the charge MUST be made before building commences.
- 10 C.B.R. tests shall be taken and submitted to the County Council's Area Manager prior to development commencing in order to ascertain road construction requirements. No work shall commence on site without prior notice being given to the Area Manager.
- 11 The proposed improvement works to the towpath (footpath T54) shall be carried out at no expense to and to a specification provided by and to the satisfaction of the Highways Manager (telephone 0116 3050001).
- 12 A public footpath is adjacent to the site and this must not be obstructed or diverted without obtaining separate consent from Leicestershire County Council.
- 13 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.

Contact Officer:- Ebony Mattley Ext 5691

Item: 02

Reference: 11/00761/FUL

Applicant: Western Power Distribution

Location: Former Emesite Nutts Lane Hinckley

Proposal: EXTENSIONS AND ALTERATIONS TO OFFICE BLOCK

Target Date: 14 December 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it comprises a commercial development with a floor area greater than 500m².

Application Proposal

This application seeks full planning permission for the erection of an extension to an existing commercial building along with associated parking, entrance gates, cycle storage and new perimeter fencing. The site comprises the former Central Networks distribution site, which was taken over by Western Power in April 2011. The extension will be similar in appearance to the existing building. It will be steel framed, the upper half and the roof will be constructed from highly insulated composite steel panels and the lower part of the walls will be of brick construction. The extension will have a footprint of approximately 865 metres square. The roof pitch and height will mimic that of the existing building.

To cater for the additional parking spaces, an area of vegetated land in the southern corner of the site, a strip of land to the west of the existing workshop and store, and an area of vegetation along the northern boundary of the site is to be hard surfaced. In order to incorporate these areas into the usable area of the site, the existing palisade fencing, which currently separates them is to be removed and re-sited along the site boundary. The new fence will be 2.4 metres high and will constitute galvanised palisade. New 1.6 metre high electric entrance gates are proposed on the access from Hammonds Way.

The Site and Surrounding Area

The site is an established distribution centre comprising of office accommodation, conference rooms, staff facilities and a large parking area. The site has a total area of 21,000 metres squared with buildings comprising an area of 2037 metres squared. The buildings are predominantly of 1980's, simplistic, commercial design. There are also large areas of hard standing providing extensive vehicular parking. The site is enclosed by palisade fencing. The main activities on site comprise engineering, servicing and distribution.

The site has two access points, one to the north off Hammonds Way, and the other to the south west, off the A5. The building to be extended is sited opposite the access off Hammonds Way.

The site is situated within the open countryside, as defined by the Local Plan, however the area is characterised by commercial, residential and recreational development. Part of the site to the north east also falls within the British Waterways Buffer Zone. To the north the site is bound by Hammonds Way, to the south is the A5. The Ashby Canal wraps round the site on the remaining boundaries. There is landscaping along the boundaries of the site. Further north of the site is the railway line. The site also comprises a Class B employment site, with a recommendation to upgrade the site to a Class A site.

Technical Document submitted with application

A Design and Access Statement has been submitted with the application this provides an overview of the site and explains that the design of the extension is in keeping with the existing development on site and will be sustainable in its construction. It continues, explaining the physical, social, economic and policy context in relation to the proposal and movement to, and within the site.

History:-

05/00543/OUT	Erection of storage building conversion of carpark to storage and associated works	Approved	27.07.05
05/00898/REM	Erection of storage building conversion of carpark to storage and associated works	Approved	08.11.05



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Consultations:-

No objection has been received from:-

British Waterways
Directorate of Chief Executive (Ecology)
Head of Community Services (Land Drainage).

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

Site notice and Press notice were displayed and neighbours notified.

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

Policy:-

National Policy Guidance

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

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

Planning Policy Statement 4 (PPS4): Planning for Sustainable Economic Growth sets out the Government's National policies for economic development which includes employment, retail and community development. The statement sets out the overarching objective of securing sustainable economic growth. Policy EC10 is of relevance to this application.

Policy EC10 sets out that "Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably." Policy EC10.1 supports applications which secure sustainable economic growth and Policy EC10.2 sets out 5 impact considerations which all applications for economic development have to be assessed against.

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' seeks to ensure that development in the countryside is sustainable, and that new building development in the open countryside away from existing settlements, or outside areas allocated for development in development plans, should be strictly controlled. The Government's overall aim is to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all. It goes on to say that all development in rural areas should be well designed and inclusive, in keeping and scale with its location, and sensitive to the character of the countryside and local distinctiveness.

Planning Policy Statement 9 (PPS9): 'Biodiversity and Geological Conservation' requires Local Authorities to fully consider the effect of planning decisions on biodiversity including

protected species and biodiversity interests in the wider environment. The broad aim is that development should have minimal impacts on biodiversity and enhance it where possible.

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

Planning Policy Guidance Note 24 (PPG24): 'Planning and Noise' guides Local Authorities on the use of planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

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

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

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

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

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies 'saved' from the Local Plans by the Secretary of State remain extant for determining applications.

East Midlands Regional Plan 2009

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

Policy 1 seeks to secure the delivery of sustainable development.

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

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

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

Local Development Framework Core Strategy 2009

Policy 14 Rural Areas Transport supports accessibility within rural areas and suggests seeks to deliver safe cycle paths as detailed within the Hinckley and Bosworth Council's Rural Parishes Cycling Network Plan. This will deliver safe routes to school, to residential and employment areas, Key Rural Centres/Urban areas, community and leisure facilities and into the countryside.

Policy 24 Sustainable Design and Technology requires all new office development within Hinckley up until 2016 to be constructed to a BREEM (or equivalent) rating of very good.

Hinckley and Bosworth Local Plan 2001

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

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

Policy BE7: Development within Conservation Areas. This states that proposals which would harm the special character or appearance of the Conservation Area will not be granted. In areas adjoining Conservation Areas, the design and siting of new development, including extensions and alterations should preserve or enhance the character or appearance of the area and be in sympathy with the merits of neighbouring development.

Policy EMP 2: 'Expansion of Existing Employment Uses' This suggests that development involving the expansion of existing firms will be permitted subject to their design, layout and parking provision etc, and subject to them having no adverse impacts on residential amenity and where they will improve the character, appearance and quality of the site and its surrounding area.

Policy REC 6: 'Ashby Canal Corridor' provides a corridor either side of the canal in order to protect the recreational and ecological value of the canal. Development is allowed within the corridor subject to specified criterion.

Policy NE14: 'Protection of Surface Waters and Groundwater Quality' seeks to protect the water environment.

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

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

Other material policy guidance

Employment Land and Premises Study 2010

This classifies the site, Nutts Lane Industrial Estate/EME Site as a Class B employment site, with a recommendation to upgrade the site to a Class A site. The site is described as an industrial estate with good car parking and servicing facilities. There are no known constraints to the site. It is stated that 100% of employment uses should be retained and no other uses should be allowed.

Landscape Character Assessment July 2006

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

Hinckley Town Centre Area Action Plan 2011

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

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

Appraisal:-

The main considerations with regards to this application are the principle of development, impacts of the development on the character and appearance of the countryside, design, highways, sustainability, economy, residential amenity and other Issues.

Principle

The site lies close to, but outside of, the settlement boundary of Hinckley and is therefore within the countryside. National, regional and local plan policies seek to protect the countryside for its own sake unless there is a demonstrable need for development in such areas. Policy NE5 states that development will only be permitted if it is either:-

- important to the local economy and cannot be provided within or adjacent to an existing settlement
- is for the change of use, reuse or extension of existing buildings
- is for sport or recreation purposes.

As the application is for an extension of an existing building, it is compliant with policy NE5. In addition to this policy, the site constitutes a recognised Category A employment site within the Hinckley and Bosworth Council's Employment Land and Premises study. As such this is considered a key site, on which 100% of employment uses should be retained. As the proposal will increase activity on this site, it is in conformity with the intentions of this document.

Character and Appearance of the Countryside

Although the site is defined as being within the open countryside; the area comprises a mixed use area. The site is surrounded to each elevation by a mix of commercial, recreational and residential development, and is screened by mature vegetation along its northern, eastern and south eastern boundary, and beyond its boundary, to the north, north east and south, by existing commercial buildings. Accordingly, additional built development within this area, and on this defined employment site will have no further detrimental impacts on the character of the area. Further, as the development is on an existing site, the proposal will not encroach further into the undeveloped countryside. There will be limited views of the proposal from the surrounding countryside, and where visible, the proposal will be seen against the backdrop of existing development. Accordingly the proposal is not considered to have any material impacts on the character or appearance of the surrounding countryside.

Initially there were concerns that the proposed parking areas and the re-siting of the palisade fence along the site boundary would result in a loss of vegetation on the site, which helps screen the site from Hammonds Way and softens the appearance of this stretch of road. However the agent has now clarified that the proposed fencing and parking areas will not necessitate the removal of very much, if any of the mature landscaping along the northern boundary. Accordingly the site will still benefit from the screening along this boundary and it will not be necessary to impose landscaping conditions.

The proposed palisade boundary fencing has a formal/harsh design. However due to the prevalence of boundary palisade fencing within the vicinity of the site, it would be difficult to argue that its provision here would not be acceptable and would justify refusal of the scheme. Furthermore, due to the existing vegetation along the northern boundary, it will be largely screened from Hammonds Way. Accordingly, in these specific circumstances its use is considered acceptable.

Design and Siting

The proposed extension will follow the grid pattern of the existing building, will maintain the same ridge and eaves height, will mimic the design and use matching material and finishes to that of the existing building. Although the proposal is extensive, doubling the footprint of the existing building, by virtue of the above the appearance of the building will be in keeping with the existing development on site. Further, as the extension will be to the rear (east) of the existing building, adjacent to the eastern boundary of the site, its mass will not be apparent when entering the site from Hammonds Way. Accordingly in respect of its siting and design, the proposal is considered acceptable.

Sustainability

In accordance with Policy 24, new office developments must be constructed to a BREEM (or equivalent) rating of 'very good'. Within the Design and Access Statement it has been stated that in accordance with best practice and the Councils energy strategy, the proposed building will be constructed in accordance with part L2 of the current building regulations and target CO2 emissions will be set on the basis of the SBEM system. It is also stated that an energy performance certificate will be provided using the SBEM or DSM system. Western Power Distribution is committed to reducing energy consumption and in addition to the above a thermal model will also be produced to monitor and estimate future energy use. Resultant of the proposed materials and construction, it is concluded that the building will achieve a BREEM rating of 'very good'. This said however, the policy only applies to new office developments and not to extensions. Therefore, despite various measures being implemented to ensure that the building is constructed in a sustainable manor, the achievement of this rating can not be reasonably secured by way of condition.

Highways

The proposal seeks to enlarge the existing parking areas to provide more space for the circulation of vehicles and to accommodate two additional light goods vehicle parking spaces, three additional motorcycle parking spaces and 24 cycle spaces.

Although the proposal will result in an increase of 30 members of staff, which will place additional pressure on the existing 77 parking spaces, despite the existing parking areas being enlarged by the application, no new car parking spaces are proposed. This said, as the site is situated within Hinckley and is in close proximity to a range of alternative modes of transport, the shortfall in parking spaces, on balance is not considered to have a detrimental impact on highway safety and would not justify refusal of the scheme. Furthermore, the

additional cycle spaces and motorcycle parking will help alleviate the shortfall, whilst also encouraging alternative modes of transport.

The Director of Environment and Transport (Highways) has stated that opportunities for non-car modes of transport should be maximised and has also requested a number of conditions which include a requirement that the extended areas of parking be hard surfaced and finished, the submission of details of the service area for loading/unloading, turning and manoeuvring of vehicles within the site to be provided together with the installation of additional cycle storage hoops; as the 6 currently proposed will not accommodate the 24 cycle spaces proposed. These conditions are considered necessary and will be imposed.

New electric entrance gates are proposed on the Hammonds Way entrance, these are situated an acceptable distance back from the highway and will have no impacts on the visibility splays. Accordingly they are considered acceptable in terms of highway safety and are compliant with policy T5.

The application is considered to have no adverse impacts in terms of highway safety, and subject to the conditions discussed above, is considered acceptable.

Residential Amenity

The closest dwellings to the development are those on Nutts Lane to the West. However these are situated approximately 245 metres from the building and there are various commercial buildings and a road separating them from the development. Accordingly, the proposal will have no material impacts on these properties in terms of residential amenity.

Other Issues

Ashby Canal

The proposed extension is approximately 140 metres from the edge of the Ashby Canal and its Conservation Area. Resultant of this distance there will be no material impacts on the special character or appearance of the area and by virtue of the boundary treatment along the eastern boundary of the site, there will be limited views of the site from the Conservation Area. In addition, policy REC6 refers to the Ashby canal corridor, stating that a strip of land adjacent to the canal either side will be protected in order to provide a recreational and wildlife corridor. The proposed scheme will have no impacts on the intentions of this policy.

Conclusion

As the proposed extension is on an existing employment site, the principle of development is considered acceptable. Despite the extensive scale of the development, by virtue of its siting, design and materials proposed, it is not considered to have any material impacts in terms of visual amenity or impacts on the character of the countryside and although the replacement palisade fencing and the enlarged parking may result in the loss of some vegetation along the northern boundary, this will be minimal, and the site and the proposal will remain adequately screened. Therefore, based on the above, the application is considered acceptable.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that

subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. By virtue of its siting, design and the materials proposed the development will have no adverse impacts in terms of visual amenity, on the character of the countryside or in terms of highway safety. Therefore the scheme is considered acceptable.

Hinckley and Bosworth Local Plan (2001):- Policies NE5, BE1, BE7, EMP2, REC 6, NE14, T5 and T9.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009) Policy 14.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Nos:- 41348 01, 41348 201, 41348 75 , 41348 99C, 41348 100B received by the Local Planning Authority on the 21 November 2011, 41348 6 received by the Local Planning Authority on the 5 October 2011, Drg No:- 36765-03 received by the Local Planning Authority on the 19 October 2011, sfga 20 rev 2 received by the Local Planning Authority on the 17 November 2011.
- 3 The materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials of the existing building.
- 4 Before the development hereby permitted is first used, details of the cycle parking provision shall be submitted to and agreed in writing by the Local Planning Authority and once provided shall be maintained and kept available for use thereafter.
- 5 The use of the development hereby permitted shall not commence until the car park shown on the permitted plans has been provided, surfaced, sealed and marked out in accordance with the permitted plans and the car park shall thereafter be retained for the purpose of the occupiers of and visitors to the development.
- 6 Prior to commencement details of a service area for loading/unloading, turning and manoeuvring of vehicles within the site have been submitted to and approved in writing by the Local Planning Authority. The service area so approved shall then be provided, surfaced and sealed before the development is first brought into use and shall be retained thereafter.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 In the interests of visual amenity to accord with Policy BE1 of the adopted Local Plan.
- 4 In the interests of the sustainability of the development and to encourage alternative transport choice to accord with policy T9 of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure there is adequate parking, in the interests of highway safety to comply with Policy T5 of the adopted Local Plan.

- 6 In the interests of highway safety and to achieve a satisfactory layout in accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Eleanor Shaw Ext 5680

Item: 03

Reference: 11/00818/FUL

Applicant: Mr Brian Sutton

Location: Sycamore Farm 29 Main Street Barton In The Beans

Proposal: SUBSTITUTION OF HOUSE TYPE FOR UNIT NO 2 OF PLANNING PERMISSION 10/00516/FUL

Target Date: 14 December 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the applicant is an elected Member of the Borough Council.

Application Proposal

This application seeks full planning permission for the substitution of house type for Unit 2 of a previously approved extant planning permission reference 10/00516/FUL relating to the erection of three live/work units on land at Sycamore Farm off Main Street, Barton in the Beans. No changes are proposed to Units 1 or 3 of the previously approved scheme. The scheme comprises the construction of a live/work unit linked to Unit 1 at first floor with a vehicular access below leading to the fields to the rear. The unit incorporates a two storey four bedroom residential element and a single storey work element arranged around a small courtyard and with gardens to the rear of the residential element. The scheme differs from that previously approved under planning permission 10/00516/FUL which provided a larger

single courtyard between Units 1 and 2 but the layout of the unit is similar to a scheme previously approved on the site in 2007 that also provided two individual smaller courtyards for the respective units.

The Site and Surrounding Area

The application site is located to the south of Main Street, Barton in the Beans and is accessed off Main Street between Sycamore Close and Deacon Rise. The access is located within the village settlement boundary, but the remainder of the site falls on the edge of but outside the settlement boundary. The site has been cleared and levelled. There are public footpaths in the vicinity of the site.

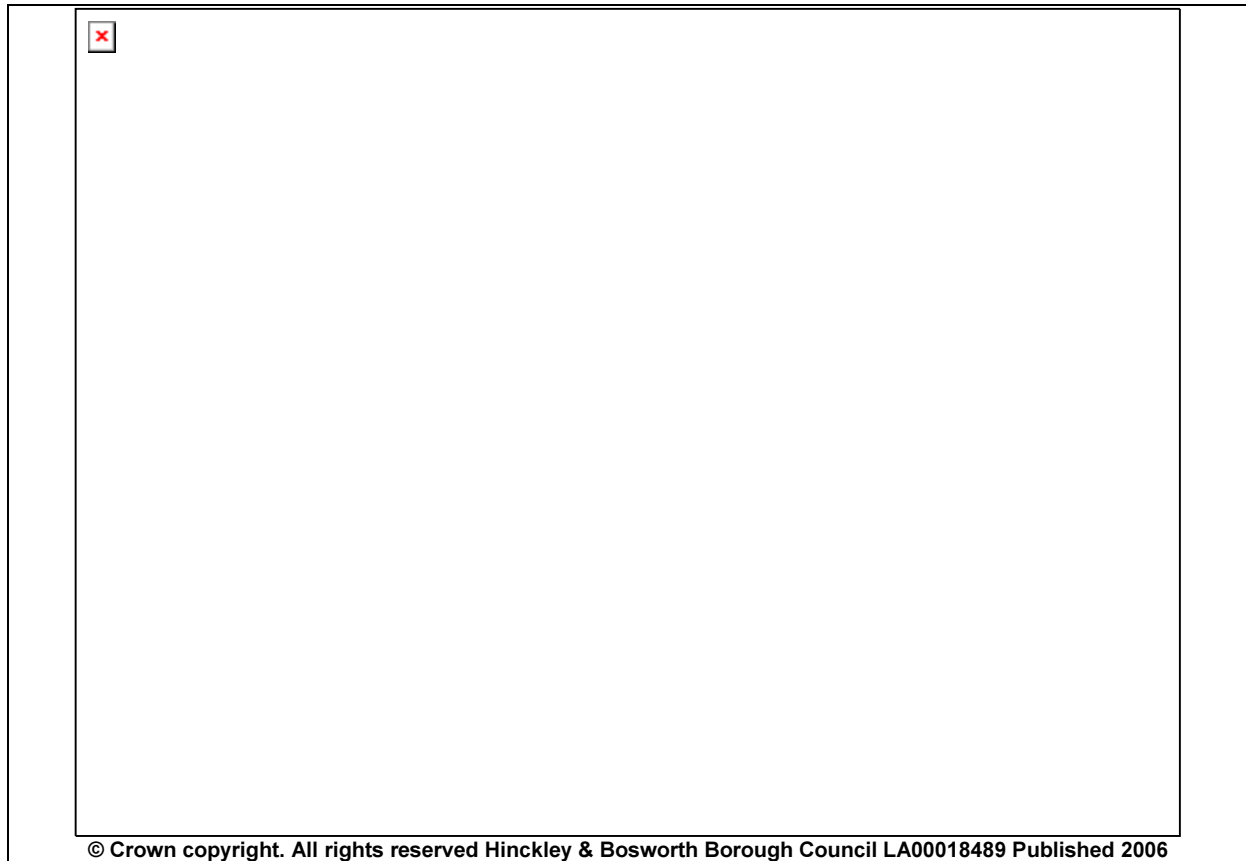
Technical Documents submitted with application

A Design and Access Statement has been submitted with the application which seeks to demonstrate that the amended proposals substantially accord with the previously approved principles in respect of the use, design, scale, floor space and appearance of the live/work unit.

Amended plans have been submitted to address issues raised in respect of the extent of the curtilage to plot 2, the removal of the field access track between plots 1 and 2, the layout and extent of the flexi zones within unit 2 and minor amendments to the external appearance of unit 2.

History:-

10/00516/FUL	Demolition of existing farm buildings, erection of three mixed residential and office units and extension and alterations to existing dwelling (Amended scheme)	Approved	02.09.10
10/00504/GDO	Erection of an agricultural building	Approved	04.08.10
09/00873/FUL	Demolition of existing farm buildings and the erection of three mixed residential and office Units, extensions and alterations to existing dwelling	Approved	16.03.10
07/01424/FUL	Demolition of existing farm buildings and the erection of three mixed residential and office units, extensions and alterations to existing dwelling and removal of agricultural occupancy condition	Approved	28.02.08



Consultations:-

No objection has been received from:-

Environment Agency
Severn Trent Water Limited
Director of Environment and Transport (Highways)
Directorate of Chief Executive (Ecology)
Head of Community Services (Land Drainage).

Director of Environment and Transport (Rights of Way) advises that an Order in respect of the diversion of footpath S87 which crosses the application site has been confirmed and came into force on 12 November 2011. The developer will be responsible for ensuring that the new route is not obstructed or affected by any operations in association with the development and for the relocation of a hand gate.

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

Site notice and Press notice were displayed and neighbours notified. Two letters have been received raising the following concerns:-

- a) Units 1 and 2 are too close together creating a wall of buildings and congested appearance
- b) additional properties will generate more traffic
- c) description of live/work unit is tenuous as only 18% of floor space is work/offices
- d) how will farmer access fields to the rear
- e) disturbance from additional vehicles including trucks to live/work units.

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

Ramblers Association
Shackerstone Parish Council
Chief Officer for Housing, Community Safety and Partnerships (Housing)
Head of Business Development and Street Scene Services (Waste Minimisation).

The consultation period remains open at the time of writing this report and expires on 10 December 2011. Any representations received before the closing date will be reported and appraised as a late item.

Policy:-

National Policy Guidance

Planning Policy Statement 1(PPS1): Delivering Sustainable Development refers to the delivery of sustainable development through the planning system. It promotes the more efficient use of land and the re-use of suitably located previously developed land. It advises that planning policies should protect and enhance the environment, promote high quality design and reinforce local distinctiveness.

Planning Policy Statement 3 (PPS3): Housing sets out the national planning policy framework for delivering the Government's housing objectives. Paragraph 10 seeks to deliver high quality housing that is well designed and promotes a flexible, responsive supply of land that makes efficient and effective use of land, including that which has been previously developed. Paragraph 12 states that good design is fundamental to the development of high quality new housing. Paragraph 14 promotes development that maintains or improves local character. Paragraph 16 outlines matters to consider when assessing design quality and includes: the extent to which the proposed development is well integrated with, and compliments, the neighbouring buildings and the local area.

Planning Policy Statement 4 (PPS4): Planning for Sustainable Economic Growth recognises changing working patterns and seeks to deliver more sustainable [patterns of development and reduce the need to travel. Policy EC2.1 seeks to make the most efficient and effective use of land, prioritising previously developed land which is suitable for re-use and to facilitate new working practices such as live/work.

Planning Policy Statement 7: Sustainable Development in Rural Areas (PPS7) reinforces the principles of sustainable development set out in PPS1. It requires good quality carefully sited accessible development; accessibility should be a key consideration; new building development in the open countryside away from existing settlements or outside areas allocated for development should be strictly controlled; priority should be given to the reuse of previously developed sites; and all development in rural areas should be well design and inclusive, in keeping and scale with its location and sensitive to the character of the countryside and local distinctiveness.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'.

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

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

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

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following;:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies 'saved' from the Local Plans by the Secretary of State remain extant for determining applications.

Local Policy

Local Development Framework Core Strategy 2009

Policy 13: Rural Hamlets supports development enabling home working and other small scale employment uses within settlement boundaries.

Hinckley and Bosworth Local Plan 2001

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

Policy BE1: Design and Siting of Development seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. The policy states that development proposals should complement or enhance the character of the surrounding area with regard to scale, layout, mass, design, and materials, ensure adequate parking provision and should not adversely affect the amenities of neighbouring properties.

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

Policy NE2: Pollution seeks to protect developments from material harm from either existing or potential sources of air or soil pollution.

Policy NE5: Development in the Countryside states that planning permission will be granted for built development provided that it is important to the local economy or is for the change of use of existing buildings and only where it does not have an adverse effect on the appearance or character of the landscape; is in keeping with the scale and character of the existing buildings and general surroundings; will not generate traffic likely to exceed the capacity of the highway network or impair road safety and is effectively screened by landscaping.

Policy T5 seeks the application of appropriate highway design standards and parking targets for development unless a different level of provision can be justified.

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

Supplementary Planning Guidance/Documents

Supplementary Planning Guidance on New Residential Development provides further guidance for developers on density, design, layout, space between buildings and landscaping/boundary treatments along with highways and parking.

Supplementary Planning Document on Play and Open Space provides further guidance to developers in respect of the different types of open space and the level of financial contributions required.

Appraisal:-

The main considerations with regard to the application are the principle of development, layout and design, impact on neighbours, highway safety, public rights of way, land contamination issues and developer contributions.

Principle of Development

The site is located on the edge of Barton in the Beans just outside the settlement boundary within the countryside as identified in the adopted Hinckley and Bosworth Local Plan. Both

national and local policy seeks to restrict residential development within the countryside and to direct new residential development to sustainable locations within existing urban and rural settlements. It is therefore considered that in principle the proposed development is contrary to adopted local policy and does not meet the aims and objectives of National Planning Guidance. However, the previously approved schemes (07/01424/FUL, 09/00873/FUL and 10/00516/FUL) established that there were exceptional circumstances relating to the previous operations at Sycamore Farm. It was because of these circumstances and the merits of the proposed scheme that permission was granted subject to a S.106 Agreement which required a number of sites at Sycamore Farm to be cleared and their uses ceased. The S.106 Agreement has been signed and the previous commercial uses of the site have ceased. Given that the S.106 agreements requirements in respect of the cessation of the previous commercial uses were triggered upon the signing and sealing of the document, the S.106 remains in force and therefore there is no need for further agreements in this respect. However, a condition to ensure that the live/work unit operates as a single unit and not separately sold, leased or otherwise disposed of is considered reasonable and necessary in this case to ensure the sustainability of the development and the intentions of the permission.

Layout and Design

The application proposes a revised layout and design to Unit 2 of the previously approved development. The residential element will be located on a similar siting and footprint with a threshing barn type opening between units 1 and 2 that provides rear pedestrian access. The single storey element of the unit which contains the work element is to be resited. This will separate the car parking provision for both units 1 and 2. Whilst differing from the previously approved scheme the proposed unit has been designed to emulate the traditional farmyard character both in terms of layout and design. The proportions, mass and scale are typical of a group of two and single storey 19th century farm buildings. External materials proposed include the use of traditional red brick and small clay tiles, which are common for the period. Whilst the revised scheme proposes a higher ground and finished floor level for Unit 2, no significant impact on the overall visual amenity of the scheme or on residential amenity will result as the ridge is no higher than the previous permitted unit.

The proposed scheme reduces the residential element from a two storey building with additional accommodation in the roof space to a two storey four bedroom dwelling and reduces the work element of the scheme from single storey with offices in the roof space to just single storey. The application demonstrates through the submitted amended floor plans that the scheme results in reductions in the overall floor space of both the residential and work elements of the unit, and also results in a proportional increase in the residential floorspace and a reduction in the work unit floorspace in comparison to the 2010 permission. Notwithstanding this the scheme maintains adequate proportions of both live and work elements which is considered acceptable in this instance.

Overall and on balance, the layout and design of this development remains of high quality. As a result, it is considered that it will enhance the character and appearance of the site, be well integrated with the surrounding area and will have a positive visual impact on the surrounding countryside contributing to a visually sensitive development that will reflect its rural location.

Impact on Neighbours

The built form of the development is located at some distance (over 46 metres) from the nearest existing dwellings in the locality and therefore the proposal is not considered to result in any material impact upon the residential amenities experienced by nearby occupiers. As the proposal is merely a substitution of house type with no additional unit being created and results in a reduction in floor space, there will be no additional impact on existing

neighbouring properties or future occupiers of the scheme from comings and goings to the unit.

Highway Issues

Access to the site is gained from the south side of Main Street between Deacon Rise and Sycamore Close and has been approved under the previous planning permissions for the wider site of which this plot forms part. The access to the land beyond that runs through the plot has also been previously approved in this location. Adequate parking, servicing and turning will be provided within the curtilage of the proposed live/work unit. The proposed live/work unit will not generate any additional traffic to that previously approved and therefore no additional impact will result on the highway network or road safety. The Director of Environment and Transport (Highways) has raised no objection to the scheme.

Rights of Way

There are two public rights of way that cross the site, S87 and S90. S87 runs east west in front of the existing farmhouse and S90 runs north/south and crosses the access to the site. Both have been subject to Diversion Orders which routes the rights of way onto third party land and to the application site perimeter. Accordingly, the proposed development does not affect the rights of way.

Other Material Considerations

The Head of Community Services (Pollution) does not object to the application but recommends conditions in respect of the development being implemented in accordance with the recommendations, and any necessary mitigation measures, contained in previously submitted Environmental Investigation and Risk Assessment Reports in respect of land contamination.

Residential schemes of fewer than 20 dwellings are required by policy REC3 to make provision for informal play and open space. The adopted Supplementary Planning Document requires this contribution of informal play space if there is an existing informal space within 400 metres of the application site. Barton in the Beans does not itself have any informal play space, the closest being in the village of Shackerstone, which is more than 400 metres away. Therefore no contribution towards provision or maintenance of informal space can be required for this scheme.

Conclusion

The earlier grant of planning permissions (07/01424/FUL, 09/00873/FUL and 10/00516/FUL) have established the principle of this development on the site and signed and sealed S.106 Agreement binds the cessation of the earlier commercial uses. This revised scheme continues to propose a mixed use development, which it is considered will blend well with the surrounding area. The development, being a scheme of live/work units, is considered despite its rural location, to be in line with sustainable policy issues by being both a previously developed site and proposing a low car use scheme. The revised scheme will not result in any adverse impact on neighbours amenities, highway safety or public rights of way. As such the proposed development is recommended for approval.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant appropriate provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan in respect of its sustainable design and use, visual and residential amenity and highway safety and would not result in any adverse impact on public rights of way.

Hinckley and Bosworth Local Plan (2001):- Policies BE1, RES5, NE2, NE5 and T5.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009):- Policy 13.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location Plan at scale 1:1250 and Proposed First Floor Plan DRWG No. HMD/PD/0218/03 Rev A received by the local planning authority on 19 October 2011; Proposed Site Layout Plan DRWG No. HMD/PD/0218/01 Rev A; Proposed Ground Floor Plan DRWG No. HMD/PD/0218/02 Rev B; Proposed Elevations DRWG No. HMD/PD/0218/04 Rev B received by the local planning authority on 29 November 2011.
- 3 The mixed residential and office unit hereby permitted shall at all times remain in single ownership or occupation and shall never be used, sold, let or otherwise disposed of as a separate residential or office unit.
- 4 Notwithstanding the details submitted, no development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the live-work unit hereby permitted 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.
- 5 The premises shall not be used other than for purposes falling within Class C3, B1a and B1b, in strict accordance with the details shown on the approved plan, of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 6 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended by (Amendment) (No.2) (England) Order 2008 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A to E shall not be carried out unless planning permission for such development has first been granted by the local planning authority.
- 7 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:-
 - i) means of enclosure
 - ii) hard surfacing materials of all vehicular and pedestrian circulation areas
 - iii) planting plans
 - iv) written specifications

- v) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
 - vi) implementation programme.
- 8 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the local planning authority.
 - 9 The work unit hereby approved shall be constructed in accordance with the approved plans and be ready for use prior to the occupation of the residential unit to which it relates and thereafter retained as such in accordance with the approved plans.
 - 10 The development shall be carried out in accordance with the submitted Environmental Investigation Report (LCS/Sycamore/002 dated 19 November 2008) and the Additional Environmental Investigation and updated Risk Assessment (LCS/Sycamore/003 dated 19 August 2010).
 - 11 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the local planning authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
 - 12 Before the first occupation of any live/work unit hereby permitted, the parking spaces and turning area as shown on the approved plan DRWG No. HMD/PD/0218/PD/01 shall be laid out and made available for vehicle parking thereafter.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To protect residential amenity and to ensure the continuation of the permitted uses in the interests of the sustainability of the development to accord with policy BE1 and NE5 of the adopted Hinckley & Bosworth Local Plan.
- 4 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 5 To ensure that the use remains compatible with the surrounding area to accord with Policies BE1 and RES5 of the adopted Hinckley and Bosworth Local Plan.
- 6 To safeguard the character of the development and in the interests of visual amenity to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 7 To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

- 8 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 9 To define the permission.
- 10 To ensure adequate consideration is given to ground contamination issues to avoid the risk of contamination in connection with the new development to accord with Policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 11 To ensure the site is suitable for the development hereby permitted and any mitigation measures necessary are incorporated to accord with Policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 12 To ensure that adequate off-street parking facilities are available to accord with policy T5 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 The applicants attention is drawn to the contents of the consultation response from the LCC Rights of Way Officer in respect of public footpaths S87 and S90 that are in close proximity to the site and their responsibility to ensure that no obstruction of the footpaths occurs by any operations associated with the development, that any damage to the footpath surfaces is repaired and in respect of the relocation of the existing hand gate.

Contact Officer:- Richard Wright Ext 5894

Item: 04
Reference: 11/00850/EXT
Applicant: Mr T Clinton
Location: Unit 3 Station Road Industrial Estate Station Road Market Bosworth
Proposal: EXTENSION OF TIME FOR EXTANT PLANNING PERMISSION 08/00824/FUL FOR DEMOLITION OF EXISTING BUILDING AND ERECTION OF 3 NO LIGHT INDUSTRIAL UNITS
Target Date: 16 December 2011

Introduction:-

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

Application Proposal

This application seeks an extension of time to the three year time limit for the implementation of an extant full planning permission 08/00824/FUL. Consent was originally granted on 17 December 2008 for the demolition of an existing industrial building and the erection of three Class B1(c) light industrial units. The rectangular shaped replacement building will provide a total of approximately 549 square metres of floor space and be constructed on a similar footprint to the existing building in facing brickwork with cladding panels. The unit will be subdivided into three individual units which will contain a workshop, office, kitchen, toilet and lobby at ground floor and an internal staircase to an additional office at first floor. The roof of the proposal building has a shallow ridge roof at the maximum height of 6.7 metres and an eaves height of 6 metres. A total of twelve car parking spaces will be provided within the curtilage of the site to serve the development together with landscaping areas to enhance the overall appearance of the site.

The Site and Surrounding Area

The application site measures approximately 0.15 hectares and is located within an established employment area for B1, B2 and B8 uses, although there are residential properties to the east of the site which front onto Station Road. The existing industrial building to be demolished provides approximately 519 square metres of floor space and is constructed of a steel frame with red brick external walls and roller shutter doors. The building is approximately 6.7 metres in height to roof ridge and approximately 4.5 metres to eaves on the west elevation and approximately 3 metres to eaves on the east elevation. The building is currently used for Class B8 storage with ancillary offices and the remainder of the site is hard standing providing parking and servicing areas.

Technical Document submitted with application

No updated documents have been submitted with the planning application. The previously submitted Design and Access Statement stated that the existing building, due to its age and construction, is becoming unsustainable, having poor insulation resulting in a high carbon index and is difficult and costly to improve. The size of the existing building is restrictive for

the expanding business necessitating relocation to a larger, more suitable premises. The replacement of the building with a more modern, sustainable development would make better use of the existing site. In order to maintain the separation distances to the neighbouring dwellings, and provide the necessary servicing and parking provision, the new building has been designed to follow the footprint of the existing building and be the same maximum overall height.

The previously submitted protected Species Survey found no evidence of such species on the site but recommended a watching brief for such species should be maintained during the demolition and development works.

History:-

08/00824/FUL	Demolition of existing building and erection of 3 light industrial units	Approved	17.12.08
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Consultations:-

No objection has been received from:-

Directorate of Chief Executive (Ecology)
Market Bosworth Parish Council.

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

At the time of writing the report comments have not been received from National Air Traffic Services.

Policy:-

National Policy Guidance

Planning Policy Statement 1(PPS1): Delivering Sustainable Development refers to the delivery of sustainable development through the planning system. It promotes the more efficient use of land and the re-use of suitably located previously developed land and buildings. Development proposals should be in sustainable locations and should seek to enhance the environment.

Planning Policy Statement 4 (PPS4): Planning for Sustainable Economic Growth in policy EC2.1 seeks to make the most efficient and effective use of land, prioritising previously developed land which is suitable for re-use. Policy EC10 requires applications for economic development to be assessed against their impact on climate change, accessibility by a choice of means of transport, impact on the character of the area by the provision of a high quality and inclusive design and impact on the economic and physical regeneration of the area and local employment. Policy EC12 states that in determining planning applications for economic development in rural areas local planning authorities should support development which enhances the vitality and viability of market towns and other rural service centres.

Planning Policy Guidance 13: Transport sets out national transport policy for new developments. The guidance seeks to ensure that development creating employment opportunities offers a realistic choice of access by public transport, walking, and cycling, and to reduce the need to travel especially by car.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change.

This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the government's `Environmental report on the revocation of the East Midlands Regional Plan` published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies `saved` from the Local Plans by the Secretary of State remain extant for determining applications.

Local Development Framework Core Strategy 2009

Policy 7: Key Rural Centres seeks to ensure that there is a range of employment opportunities within the Key Rural Centres and supports the enhancement of allocated employment sites within them.

Policy 11: Key Rural Centres Stand Alone supports additional employment provision to meet local needs in line with Policy 7 and deliver safe cycle routes.

Hinckley and Bosworth Local Plan 2001

The site is located within the settlement boundary and an existing employment site within Market Bosworth as identified in the adopted Hinckley and Bosworth Local Plan.

Policy EMP1 considers existing employment sites. The designation of the industrial estate in the adopted Local Plan was originally EMP1(b), which aims to retain acceptable sites for employment purposes, while judging proposals for other employment activities or alternative uses on their merits.

Policy BE1: Design and Siting of Development seeks to ensure a high standard of design in order to secure attractive development and to safeguard and enhance the existing environment. The policy states that development proposals should complement or enhance the character of the surrounding area with regard to scale, layout, mass, design, and materials; incorporate design features that reduce energy consumption; incorporate landscaping; ensure adequate parking standards and should not adversely affect the amenities of neighbouring properties.

Policy NE2: Pollution seeks to protect developments from material harm from either existing or potential sources of air or soil pollution.

Policy NE14 seeks to protect surface waters and groundwater quality by ensuring satisfactory arrangements are made for the disposal of surface waters.

Policy T5 seeks the application of appropriate highway design standards and parking targets for development unless a different level of provision can be justified.

Other Material Policy Guidance

The draft National Planning Policy Framework was published for consultation on 25 July 2011. The inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change. This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report. Officers will continue to advise on the progress of this consultation and update members on that progress.

The Borough Council's Employment Land and Premises Study (2010) describes Station Road Industrial Estate on which the application site is located as a small, modern industrial estate with low prominence and buildings of various ages and quality with good car parking and servicing. The study recommends that the site be upgraded to an EMP1(a) category site as a key rural employment area and retained for 100% employment use.

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

Appraisal:-

In determining the previous application, the principle of development, the layout, design and impact of the development on the amenities of the neighbouring dwelling, highway safety and biodiversity were assessed and the proposals were considered to be acceptable and planning permission was granted subject to a number of conditions. The main considerations in determining this application are whether any development plan policies or other material considerations have changed significantly since the grant of permission which may lead to a different conclusion on the acceptability of the application and if the originally imposed conditions are still reasonable and necessary to make the development acceptable in planning terms.

Changes in National, Regional and Local Planning Policy

Since the approval of the previous planning permission there have been a number of changes to national, regional and local planning policies.

Planning Policy Statement 4 (PPS4); 'Planning for Sustainable Economic Growth' was published in 2009. This national guidance encourages the approval of proposals such as this which make efficient and effective use of previously developed land which is suitable for re-use for economic development purposes. PPS4 also encourages proposals that, through the provision of a high quality design improve the character and appearance of the area, have good accessibility and provide a choice of a means of transport, contribute to the provision of local employment and the vitality and viability of rural service centres. Overall, it is considered that PPS4 provides significant support for the proposals and that as a result there is no change to national planning guidance that would lead to a different conclusion on the acceptability of this application.

The East Midlands Regional Plan was adopted in March 2009 and revised the Regional Spatial Strategy (RSS) 8 for the East Midlands (adopted 2005) and the Leicestershire,

Leicester and Rutland Structure Plan 1996-2016 (adopted (2005). There is a significant degree of continuity between the objectives of regional planning policy considered at the time of determination of the previous application and planning policy set out in the above documents such that there is no significant changes that would lead to a different conclusion on the acceptability of this application.

The Local Development Framework: Core Strategy was adopted in 2009. The proposals are supported by Policy 7 and Policy 11 which seek to ensure that there is a range of employment opportunities to meet local needs within the Key Rural Centres and support the enhancement of allocated employment sites within them.

The previous application was considered against the same Hinckley and Bosworth Local Plan (adopted 2001) policies which have been 'saved' by direction under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004.

Whilst there have been a number of changes in national planning guidance, regional planning policy and local planning policy since determination of the previous application, on balance it is considered that the changes in planning policy are not so significant or material that they would lead to a different decision being made on the acceptability of the proposed development of the site. It is considered that given the current economic situation, the extension of time can be justified in planning terms and is in line with advice in the guidance document 'Greater Flexibility for Planning Permissions' published in November 2009.

Other Material Considerations

Biodiversity

A Protected Species Survey was carried out on the existing building in October 2008 and was submitted to support the previous application. The Directorate of Chief Executive (Ecology) does not object to the application and due to the lack of evidence of protected species found by the previous survey and the nature of the construction of the building does not require any updated or further survey work. However, a suitably worded informative could be included on any planning permission to require a watching brief for all protected species to be maintained during demolition of the building.

Conditions

The conditions imposed on the previous planning permission and the reasoning for their imposition has been reconsidered. The consultation response from the Head of Community Services (Pollution) repeats the recommended conditions in respect of land contamination investigation from the previous application given the historical former uses on the site.

The previously imposed conditions in respect of external materials, hard and soft landscaping, external storage, land contamination investigation, protection of ground and surface waters and access and gate details are all considered to remain relevant, reasonable and necessary in order to secure satisfactory development and it is considered that these should be carried forward to any new planning permission, with some minor changes. The imposition of a condition (2) relating to the proposed development being carried out in accordance with the approved drawings has been included to define the properly define the permission.

Conclusion

The efficient and effective reuse of previously developed land within settlement boundaries is encouraged by national planning guidance and development plan policies. The principle of

development on this site has been established with the granting of planning permission for three light industrial units under planning permission 08/00824/FUL. By virtue of its siting, scale, design and layout the proposed development is considered to enhance the character and appearance of the site whilst respecting the amenities of neighbouring residential properties and highway safety. It is considered that there have been no significant or material changes in national, regional or local planning policies or other material considerations that would lead to a different determination on the acceptability of the previously approved planning permission for redevelopment of the site for Class B1(c) light industrial employment units. Given the current economic situation, the extension of time can be justified in planning terms and is in line with advice in the guidance document 'Greater Flexibility for Planning Permissions' published in November 2009. The application is therefore recommended for approval subject to conditions.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to representations received and the relevant provisions of the development plan, as summarised below, it is considered that, subject to compliance with the conditions attached to this permission, the proposed development by virtue of its siting, scale, height and design will enhance the character and appearance of the site and will not have an adverse impact on residential amenity, land contamination, highway safety, surface or groundwater quality or biodiversity.

Hinckley and Bosworth Local Plan (2001):- BE1, EMP1, NE2, NE14 and T5.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009):- Policies 7 and 11.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location Plan, Proposed Site Layout Plan and Site Section Job No. 108 Drawing No. 3 Rev D received by the local planning authority on 1 December 2008; Proposed Floor Plans and Elevations Job No. 108 Drawing No. 2 Rev A received by the local planning authority on 26 November 2008.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed building shall be deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 Notwithstanding the submitted plans, no development shall take place until full details of both hard and soft landscaping works, including implementation timetables, have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved.
- 5 The approved hard and soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs, which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the local planning authority.

- 6 There shall be no storage of any description on the open areas of the site.
- 7 Before the development hereby permitted is first brought into use, cycle parking provision and off-street parking shall be provided within the application site as shown on the approved plan. The areas shall be surfaced and marked out prior to the development being first brought into use and once provided shall be so maintained at all times thereafter.
- 8 No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the local planning authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.
- 9 If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the local planning authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.
- 10 Surface water runoff from access roads, parking, turning, loading and fuelling areas shall be routed through suitably sited fuel/oil separators before discharging to receiving waters.
- 11 Notwithstanding the submitted plans, a scheme for the provision of the accesses and gates 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 prior to first use of the proposed development.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.
- 4 To enhance the appearance of the development to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 6 To ensure the site does not deteriorate into an untidy condition to accord with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 7 To ensure that adequate off-street parking and servicing facilities will be available to serve the premises when they are brought into use and in the interests of sustainable travel to accord with policy T5 of the adopted Hinckley and Bosworth Local Plan.

- 8&9 To ensure safe development of the site to accord with policy NE2 of the adopted Hinckley and Bosworth Local Plan.
- 10 To protect surface water and ground water quality from the risk of pollution to accord with policy NE14 of the adopted Hinckley and Bosworth Local Plan.
- 11 To ensure that adequate accesses in terms of width and visibility are available, in the interests of road safety to accord with policy T5 of the Hinckley and Bosworth Local Plan.

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 In relation to conditions 8 and 9 advice from Health and Environment Services is attached to this decision notice which includes the Borough Council's policy on the investigation of land contamination. Any scheme submitted shall be in accordance with this policy.
- 6 On the basis of the submitted plans, it would appear that the site does not have a common boundary with the adopted highway on Station Road. The Applicant should demonstrate that a right of access into the site exists.

Contact Officer:- Richard Wright Ext 5894

Item: 05
Reference: 11/00687/FUL
Applicant: Mr Jon Higgins
Location: The Chestnuts 25 Mount Road Hinckley
Proposal: CHANGE OF USE FROM REGISTRARS OFFICE AND OFFICES (B1) TO CHILDREN'S NURSERY (D1) INCLUDING EXTENSIONS AND ALTERATIONS
Target Date: 19 December 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the application proposes a change of use to a 'D' use as per the Use Classes Order.

Application Proposal

This application is for the change of use of a Registrars Office and Offices to a children's nursery along with extensions and alterations. The nursery proposed will have capacity for 78 children, 30 of whom would be 0-2yrs, 24 of whom would be 2-3yr olds and 24 whom would be 3-5yr olds. To care for the children 17 members of staff are proposed, with a maximum of 14 being on the site at any one time. 17 parking spaces are proposed, including one for disabled use, along with 2 cycle spaces. In addition to the change of use, a two storey extension is proposed to the west of the existing building within the garden area. The extension is designed as a simple modern building, set back and subservient to the existing. A basic pallet of materials has been proposed including brick, cedar cladding, glass and a metal standing seam for the low pitched roof. The siting of the extension sub-divides the garden area. The front garden will be for 0-2 year olds, and the rear for 2-5 year olds. The existing vehicular access is to be retained, and a new footpath and pedestrian gate have been introduced to link the parking area and the street pavement with the entrance to the nursery. The accommodation will be split over two floors and will provide changing areas, offices, staff accommodation, laundry facilities, a kitchen, nursery rooms, a reception and a meeting room.

Due to officer concerns in respect of the design of the proposal amended plans have requested and received. An additional 14 day neighbour consultation has been conducted.

Initially the Head of Community Services (Pollution) had concerns over the potential noise impacts of the use on surrounding properties. Accordingly additional information was requested from the application to clarify the situation. This information has been supplied, and sent to the Head of Community Services (Pollution) for their further comments. Additional comments have been received, and there are no objections to the proposed use.

The Site and Surrounding Area

Number 25 Mount Road comprises a detached two storey property of brick construction and a tiled roof, built in the inter war period. The building retains many of its original features.

The site has an area of 0.17 hectares and is roughly rectangular in shape. The building and existing car park is located on the eastern portion of the site. The western area comprises a lawn with some mature trees. The southern end of the site fronts Mount Road and the northern end is bounded by the access road to the Council Offices. Immediately adjacent to the east is the Mount Road Baptist Chapel, which has been extended northwards to the majority of the width of the plot. To the west is a semi-detached house, now used for commercial purposes.

In the wider area, Mount Road is predominantly residential, the buildings being mainly 2/3 storey semi detached and terraced Victorian houses. The north side of the road is less densely developed. The Baptist Chapel next door to the site is an exception to the typical development in this local area, it being a comparatively modern low pitched development with no garden space.

The site is within the Hinckley Town Centre Master Plan area and just outside the Hinckley Town Centre Conservation area.

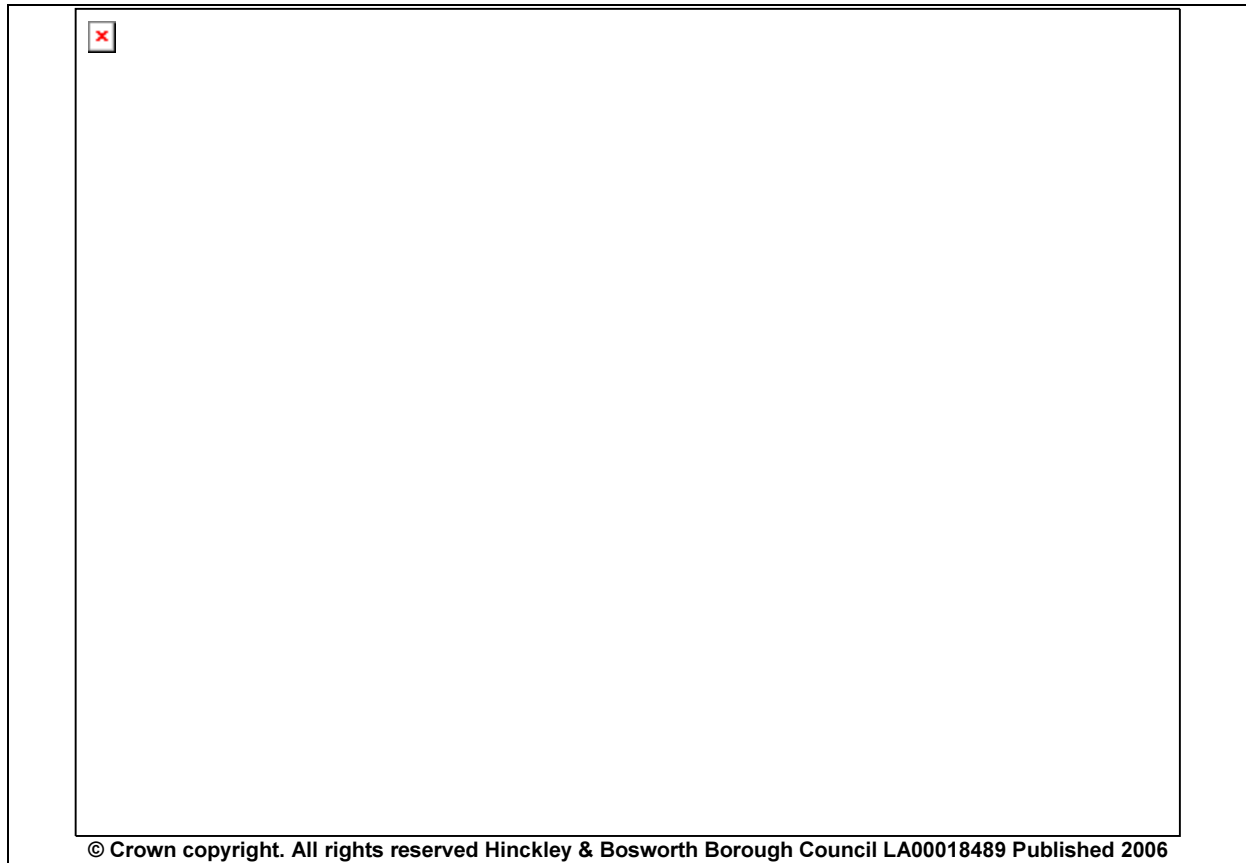
Technical Document submitted with application

The application has been submitted with a Design and Access Statement and a Planning Statement. The Design and Access Statement provides an overview of the proposal and concludes that the application has been made by an applicant with experience of providing and running such facilities. The development will provide a facility that will make a positive contribution to the mixed development of the town centre and will add to the growth and prosperity of the area. The application will improve accessibility to the building, will retain the existing building and upgrade it in terms of thermal performance and will utilise the majority of the existing hard surfacing and soft landscaping.

The Planning Statement summarises the nursery requirements and explains the planning context. It states that 25 Mount Road offers a site with sufficient space for the use proposed, has a building suitable for conversion, provides existing access, parking areas and a garden that could become an outdoor nursery room.

History:-

77/01050/4	Change of use from residential to offices for the registrar of births, deaths and marriages	Approved	17.11.77
75/00656/4	Erection of Local Government Area Offices	Approved	16.07.75



Consultations:-

No objection has been received from:-

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

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

One letter of Neighbour representation has been received, this raises the following concerns:-

- a) that the design of the extension proposed is not in keeping with that of surrounding properties
- b) that the parking provision proposed is not adequate for peak drop off and collection times
- c) the access is not wide enough to cater for the use
- d) the proposal will lead to additional congestion in an already busy area.

At the time of writing the report comments have not been received from The Borough Council's Arboricultural Consultant.

Policy:-

National Policy Guidance

Planning Policy Statement 1: Delivering Sustainable Development sets out the Government's objectives for the planning system and the delivery of sustainable development. The document states that high quality and inclusive design should be the aim of all those involved in the development process. The Planning System: General Principles forms a supplement to PPS1. This states that "planning applications should continue to be considered in the light of current policies. However, account can also be taken of policies in emerging Development Plan Documents. The weight to be attached to such policies depends upon the stage of preparation or review, increasing as successive stages are reached".

Planning Policy Statement 4: Planning for Sustainable Economic Growth sets out the Government's national policies for economic development which includes employment, retail and community development. The Statement sets out the overarching objective of securing sustainable economic growth. Policy EC2 seeks to make the most efficient use of previously developed land and encourages new uses for vacant buildings.

Planning Policy Guidance Note 13: Transport sets out national transport planning policy. It seeks to provide sustainable transport choice, improve accessibility and reduce the need to travel by car. Local Planning Authorities are encouraged to maximise the use of accessible sites that are either in town centres or close to transport interchanges. The guidance advises on retail and leisure developments suggesting that such development should be concentrated in centres. With regards to parking provision this states that Local Authorities should 'not require developers to provide more spaces than they themselves wish' and that 'reducing the amount of parking in new development is essential, as part of a package of planning and transport measures, to promote sustainable travel choices'.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change.

This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

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

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

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation, the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the government's `Environmental report on the revocation of the East Midlands Regional Plan` published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies `saved` from the Local Plans by the Secretary of State remain extant for determining applications.

East Midlands Regional Plan 2009

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

Policy 1 seeks to secure the delivery of sustainable development.

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

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

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

Local Development Framework Core Strategy 2009

Policy 1: Development in Hinckley seeks to ensure that there are a range of employment opportunities within Hinckley, expects development to respect Hinckley's industrial heritage through the sympathetic reuse of existing buildings, requires new development to enhance the poor public realm within the town centre and states that development should be of the highest environmental standards in line with Policy 24.

Policy 5: Transport infrastructure in the sub-regional centre sets out transport interventions which are proposed to support additional development in and around Hinckley. This includes improvements to the provision and management of car parking and public transport to increase the increased use of Hinckley town centre.

Policy 20: Green Infrastructure is a key priority of the Council and seeks to mitigate against the urban 'heat island' effect by increasing the number of street trees to provide shade, cooling and air quality improvements.

Hinckley Town Centre Area Action Plan

The Hinckley Town Centre Area Action Plan (AAP) was adopted through Full Council on 21st March 2011. As such it is a development plan document for Hinckley Town Centre within the Local Development Framework. The application site falls within the Hinckley Town Centre Area Action Plan boundary, but does not have a specific allocation.

Spatial Objective 2 seeks to increase and improve accessibility within, to and from the town centre for pedestrians, cyclists and public transport and improve and rationalise car parking facilities in Hinckley town centre.

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

Spatial Objective 5 seeks to support the development of new, leisure, cultural and educational facilities to improve the quality of life and leisure within Hinckley, whilst adding value and attractiveness to the town centre to encourage active recreation.

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

Hinckley and Bosworth Local Plan 2001

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

Policy BE1: 'Design and Siting of Development' states that development should: complement or enhance the character of the surrounding area; have regard to the safety and security of individuals and property; have regard to the needs of people with disabilities or limited mobility where access is to be available to the general public; ensure adequate highway visibility and adequate provision of off-street parking and manoeuvring facilities for staff and visitors; not be adversely affected by activities within the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development; not adversely affect the occupiers of neighbouring properties.

Policy CF1: 'Community Uses' states that planning permission will be granted for the development of community facilities, including assembly and leisure uses, within or abutting the centres of local settlements where there will be no detrimental effect on: the amenities of

adjoining residential properties in terms of proximity, noise, disturbance or excessive traffic generation; the character of the area; highway safety and where adequate off-street parking provision is available to serve the proposed development.

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

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

Supplementary Planning Guidance/Documents

None relevant.

Other Guidance

The Governments National Childcare Strategy has highlighted the need for good quality childcare which is affordable and accessible to parents seeking to balance domestic and working life. The principle of nursery provision within conveniently located residential areas, is acceptable. However, in planning policy terms, such uses can give rise to amenity problems from neighbouring properties particularly in terms of noise from children and cars visiting day nurseries. It has been demonstrated that in other locations this type of use can be compatible with adjoining residential uses however, each case needs to be considered on its own merits.

Children's nurseries by nature change the character of a property by increased comings and going to and from the site and noise associated with children playing. Therefore highway safety and the effect on the amenities of neighbouring properties are the main concerns.

Appraisal:-

The main considerations with regards to this application are the principle of the development, impacts on neighbours, siting and design, highways and other issues.

Principle

The application site is situated within the Hinckley Town Centre Area Action Plan Boundary, but does not comprise of a strategic development site, and within the designated Retail area, as defined by the Hinckley and Bosworth Local Plan. However the site is not situated within the primary retail area, but the town centre fringe.

To ensure that buildings are being used to their economic capacity, PPS4 and the Area Action Plan encourages the change of use of vacant buildings within town centres, such as that in question, and also promotes the use of brownfield sites. Based on this, the change of use to a children's nursery is considered acceptable in principle. Therefore the acceptability of the scheme will be subject to other planning considerations being considered acceptable.

Siting and Design

The siting of the proposed extension to the north west of the existing building, on its garden area, is considered acceptable. Despite its extensive footprint, which is roughly the same size as that of the existing building, as the proposal has been set back 14 metres from the principal elevation of the existing building, it will appear subservient, and will not compete or read as part of the original building. Further, the proposals status as an extension will be reinforced by the fact that development along this stretch of road follows a uniform front

building line, which the proposal does not adhere to. Despite its size, the majority of the existing garden will be retained, and its function as a green lung and its amenity value within the town centre will not be materially compromised.

Amended plans have been submitted. The siting of the proposed extension remains the same, however the design and elevational detail has been amended. The application now comprises a contemporary extension which echo's the scale, mass and the vertically emphasised fenestration and colour of the windows in the existing property. The roof design comprises a double split-pitch arrangement, which has increased the massing of the roof to an acceptable level and has brought the design more inline with that of the existing building; which is characterised by its significant roof mass. However, despite this increase in mass, the extension retains a subservient relationship as its ridge height remains lower than that of the main property. The materials proposed comprise a mix of traditional brick, in keeping with that used on the existing building and cedar boarding. The mix will help differentiate the extension as a separate, new entity, whilst also ensuring that it is well related to its vegetated setting and the existing buildings on Mount Road. Overall the design proposed is responsive to its setting and well related to detail and mass of the existing building.

Impacts on Neighbours

The closest residential properties to the site are those on the opposite side of Mount Road, which are approximately 24 metres from the front boundary of the site and the first floor flat at 23 Mount Road, to the west of the site, which is 12m from the side elevation of the proposal. Impacts of noise and disturbance from children playing within the garden, and those associated with vehicular movements must be considered.

In respect of noise from children and associated activities within the garden of the site, the Head of Community Services (Pollution) initially requested additional details to be submitted of the types of activities which are to take place in the garden, and the boundary treatment proposed.

In response to this, the agent has provided the required information. It has been stated that the outdoor area will be used by small supervised groups between the hours of 8.30 am and 5.30 pm. It goes on that Shooting Stars Nurseries do not use noisy toys, such as drums as they are distracting for other children's concentration. Musical instruments are not used, other than once a week when a 'music lady' attends to provide a structured music lesson, however these lessons take place indoors. It has also been stated that no external music is played outdoors.

In respect of the boundary treatment, the existing chain link fencing and hedging is to be made good. The boundary adjacent to the car park will be enclosed by a chain link fence and a lockable gate. The front garden area adjacent to the western boundary is enclosed by a chain link fence and hedge, and the front garden boundary (south elevation) is to be secured by a 1.5 metre high chain link fence, which will be situated immediately behind the existing 0.8 metre high close boarded fence, and a new privet hedge is to be planted to grow through the chain link fence to secure the boundary. Notwithstanding the submitted details, details of the landscaping to be provided along the boundaries of the site will be requested by way of planning condition.

Based on the submitted information, the Head of Community Services (Pollution) has no objections.

Due to their distance from the property, the limited amount of activities which take place in the garden and the fact that a busy road separates them from the application site, the properties on the opposite side of Mount Road are not considered to suffer any material

impacts to their residential amenity from the proposed use. The property most likely to suffer impacts will be the adjacent first floor flat. However as the children will only be in the garden for short periods of time, within core working hours, will not use 'noisy' toys and will not have external music, the level of noise and disturbance is not considered material and will not have any detrimental impacts on the amenity of this property.

In respect of noise and disturbance from vehicle movements, whilst there may be some disturbance caused during 'peak' drop off and collection times, as the car park and access is situated adjacent to the north eastern boundary of the site, which neighbours the Baptist Church, there are considered to be limited impacts in terms of noise and disturbance on nearby residential properties. Further as the site already has a commercial use, and is situated on a busy road, the level of noise and disturbance from vehicle movements resultant of the proposed use is not considered to be materially more than existing. Accordingly there is no justification to refuse the application on these grounds.

Accordingly, based on the information submitted, the sites existing commercial use and due to its distance from surrounding residential properties, the proposal is not considered to have a material impact in terms of noise and disturbance on surrounding residential properties and is therefore considered acceptable.

Although the specific use proposed is not considered to result in any material impacts on the residential amenity of surrounding properties or in terms of highway safety, other uses within Class D1 of the Use Class Order may. Resultant of permitted development rights, if unrestricted, the building could be used for other uses within this class. Accordingly, it is considered necessary to impose a condition to restrict the use of the building to a Children's Nursery. If in the future the use of the building is to change, the Local Planning Authority will then have the opportunity to consider the acceptability of the use.

Highways

Neighbour concerns have been raised that the parking provision proposed is not adequate for peak drop off and collection times, that the access is not wide enough to cater for the use and that the proposal will lead to additional congestion in an already busy area.

In respect of the parking provision being inadequate for peak drop off and collection times, as there is a large nearby public car park, any under provision on the site will be catered for by this, and thus this is not considered to be an issue which would warrant refusal of the scheme. The access is not considered wide enough to cater for the proposal, however in order to overcome this issue, if approved, a condition will be imposed to increase the width of the access to an acceptable width, in accordance with County Highway.

Design guidance. As discussed above, whilst the use may result in additional vehicle movements during 'peak' times, due to the parking facility provided on site, and those provided by the nearby public car park, there is no evidence to assume that the proposal will result in further congestion on the highway, and thus this is not considered a reason for refusal.

Based on the fact that the site has an existing commercial use, is situated within the town centre and is in close proximity to a range of alternative modes of transport and a public car parking facility; the use proposed is not considered to give rise to any material impacts in terms of highway safety and is therefore, subject to the conditions recommended, considered to be in accordance with policy T5 of the adopted Hinckley and Bosworth Local Plan.

Other Issues

Sustainability

The site is located within the settlement boundary of Hinckley within a mixed use area, close to houses, businesses, a bus route and other services.

Therefore the proposed nursery facility is well situated to cater for the needs of nearby residents and employees, and its location is considered sustainable.

Economy

The proposal will bring back into use a currently vacant commercial building. Through the jobs the proposal will create and service it provides, it will have a positive impact on the local economy. Therefore the proposal is considered in accordance with Planning Policy Statement 4.

Trees

No comments have yet been received from the Borough Council's Arboricultural Consultant.

The site is already landscaped and is characterised by a number of mature specimens, although none are protected by a TPO and the site is not situated within a Conservation Area. As shown on the submitted site plan, these trees are mainly situated around the perimeter of the site, with the exception of two, which are located within the front and rear gardens. Accordingly, it is not considered that any trees will be adversely impacted by the proposal, and thus their contributions in terms of amenity and biodiversity will not be adversely impacted on by the scheme.

Conclusion

Despite its scale the proposal is considered to be acceptable in terms of its design and size. In respect of its use; by virtue of its town centre location and its proximity to nearby parking facilities, residential properties and commercial uses; its location is considered sustainable, and as it will bring back into use a vacant commercial property it will be beneficial to the local economy. Therefore the proposal is considered acceptable and in accordance with local and national planning policy and the Town Centre Area Action Plan.

RECOMMENDATION:- That the Deputy Chief Executive (Community Direction) shall be granted powers to grant planning permission for the development subject to no significant planning objections being received before the expiry of the consultation period on 10 December 2011 permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. By virtue of the fact that the proposal is bringing back into use a vacant building, the specific use proposed, its town centre location, the existing parking provision and its siting, the proposal is considered acceptable in principle and is not considered to have any material impacts in terms of residential amenity or highway safety. Therefore the proposal is considered acceptable.

National Planning Policy Statement 4

Hinckley and Bosworth Local Plan (2001):- Policies BE1, CF1, T5 and T9.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009):- Policies 1, 5, and 20.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Refs:- 858:D07 Rev C, 858:D08 Rev C, 858:D09 Rev D, 858:D10 Rev C, 858:D12 Rev B received by the Local Planning Authority on the 1 December 20 11.
- 3 Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the proposed extension shall be deposited with and approved in writing by the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.
- 4 Before first use of the development hereby permitted, the existing gates to the vehicular access shall be removed. Any new vehicular access gates, barriers, bollards, chains or other such obstructions erected shall be set back a minimum distance of metres behind the highway boundary and shall be hung so as to open inwards only.
- 5 The proposed access shall have an effective width of a minimum of 5.25 metres for a distance of at least 5 metres behind the Highway boundary and have 4 metres kerbed radii at its junction with the adopted road carriageway. The access drive once provided shall be so maintained at all times.
- 6 Notwithstanding the submitted plans, prior to commencement details of the boundary treatment along the southern and eastern boundaries of the site need to be submitted to and approved in writing by the Local Planning Authority. The scheme shall then be implemented as approved and retained thereafter.
- 7 The premises shall be used as a Children's Nursery and shall not be used for any other purposes falling within Class D1 of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
- 8 The children's nursery hereby approved shall not be open to the public outside the following times:- 7.30 am – 7.00 pm Monday - Friday.
- 9 Notwithstanding the submitted details, no development shall take place until full details of soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include:-
 - i) planting plans
 - ii) written specifications
 - iii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate
 - iv) implementation programme.
- 10 The approved soft landscaping scheme shall be carried out in accordance with the approved details. The soft landscaping scheme shall be maintained for a period of

five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interest of proper planning.
- 3 In the interests of visual amenity and to safeguard the character of the area, in accordance with policy BE1 of the adopted Local Plan.
- 4 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. In accordance with Policy T5 of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure that vehicles entering and leaving the site may pass each other clear of the highway and not cause problems or dangers within the highway. To accord with Policy T5 of the adopted Local Plan.
- 6 In the interests of visual amenity to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 7 The use of the development for any other purpose within the said class is likely to give rise to conditions detrimental to residential amenity and would require further consideration by the Borough Planning Authority. To comply with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 8 In the interests of residential amenity, to accord with Policy BE1 of the adopted Local Plan.
- 9 In the interests of visual amenity in accordance with policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 10 To ensure that the work is carried out within a reasonable period and thereafter maintained to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

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

- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 In reference to condition 5, 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.

Contact Officer:- Eleanor Shaw Ext 5680

Item: 06

Reference: 11/00757/FUL

Applicant: Ms Fran Muddimer

Location: National Grid Brick Kiln Street Hinckley

Proposal: ERECTION OF FOUR MODULAR BUILDINGS

Target Date: 19 December 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it comprises a commercial development with a floor area greater than 500m².

Application Proposal

This application seeks full planning permission for the erection of modular office building and three ancillary modular storage units at the National Grid Site off Brick Kiln Street, Hinckley. The proposal is to replace an original building of a similar size, which has recently been demolished. The proposed office building will have a footprint of approximately 500 square metres and will be of flat- roofed construction. The building will be sited on a similar footprint to the recently demolished building; in the north western corner of this extensive site, on a strip of land between the two main parking areas. The three ancillary storage buildings will be sited parallel to one another, to the west of the main building. These will have a footprint of approximately 15 square metres and will also be of modular, flat roofed construction. All buildings will be finished in a Goosewing Grey.

The building will accommodate 68 construction staff and will be sub-divided between an open plan office area, meeting rooms, stores and welfare facilities.

The Site and Surrounding Area

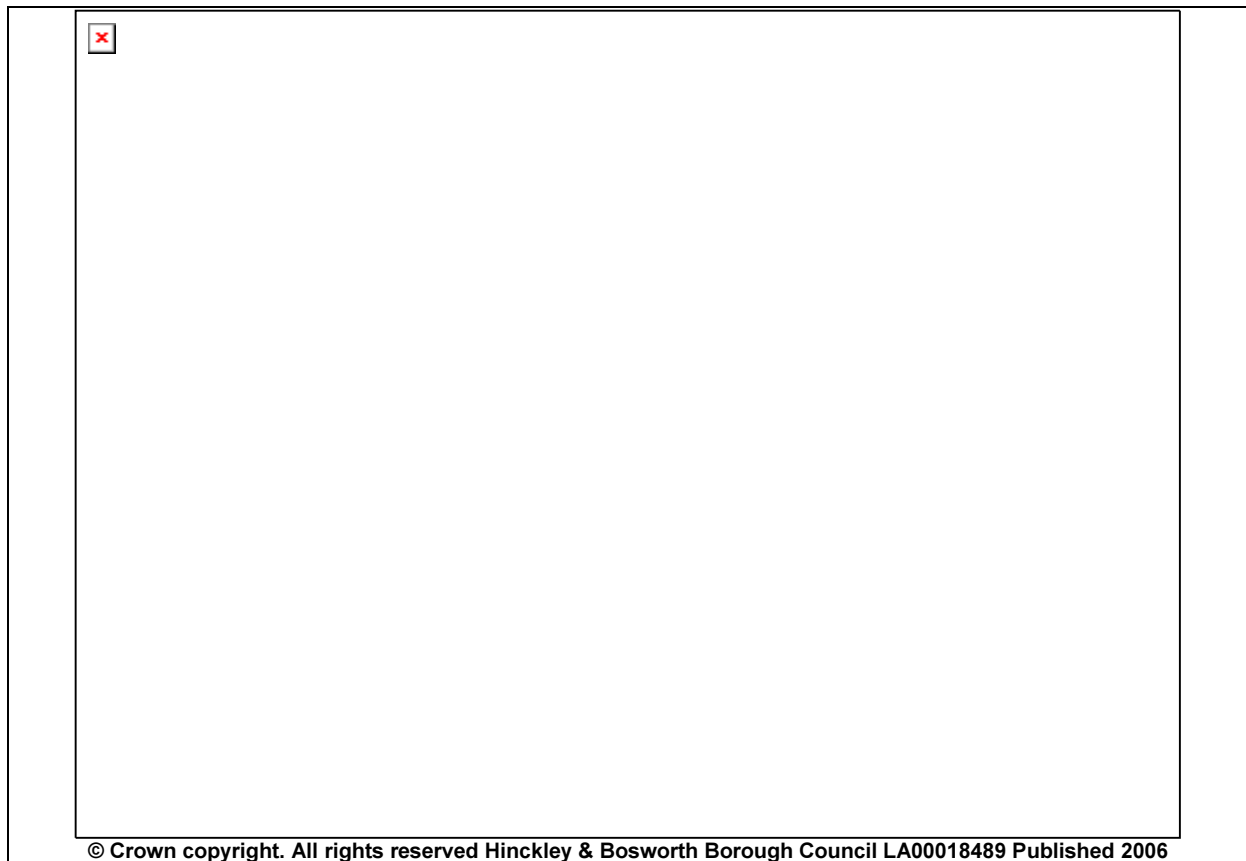
National Grid is a large employer that occupies a prominent, irregular-shaped site, situated to the south west of the Town Centre. The site has grown over the years and extends to the rear boundaries of residential properties on Trinity Vicarage Road and Swinburne Road. To the remaining sides, the site bounds Clarendon Park to the north west, commercial development to the south west and Coventry Road to the south.

Technical Document submitted with application

A Design and Access Statement has been submitted with the application. This states that the large modular building will be sited in the footprint of the recently -demolished building. This building was demolished as it was in a poor state of repair. The building will not accommodate any additional staff and therefore there will be no requirement to provide additional parking.

History:-

11/00436/FUL	Extension and alteration to office building	Approved	08.08.11
11/00428/FUL	Installation of heat pumps	Approved	05.08.11
10/00531/FUL	Extensions and alterations to building	Approved	13.10.10
09/00347/FUL	Installation of car park lighting	Approved	26.06.09
09/00308/FUL	Formation of Treatment System, siting of works containers and office containers	Approved	26.06.09



Consultations:-

No objection has been received from:-

Head of Community Services (Pollution)
Head of Community Services (Land Drainage).

No objection subject to conditions have been received from Severn Trent Water Limited.

Site notice and Press notice were displayed and neighbours notified.

No comments have been received from Neighbours.

Policy:-

National Policy Guidance

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

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

Planning Policy Statement 4: Planning for Sustainable Economic Growth sets out the Government's national policies for economic development which includes employment, retail and community development. The Statement sets out the overarching objective of securing sustainable economic growth. Policy EC10 is of relevance to this application.

Policy EC10 sets out that "Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably." Policy EC10.1 supports applications which secure sustainable economic growth and Policy EC10.2 sets out 5 impact considerations which all applications for economic development have to be assessed against.

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

Planning Policy Guidance Note 24 (PPG24): 'Planning and Noise' guides Local Authorities on the use of planning powers to minimise the adverse impact of noise. It outlines the considerations to be taken into account in determining planning applications both for noise-sensitive developments and for those activities which generate noise.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'.

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change.

This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

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

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

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan

- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies `saved` from the Local Plans by the Secretary of State remain extant for determining applications.

East Midlands Regional Plan 2009

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

Policy 1 seeks to secure the delivery of sustainable development.

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

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

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

Local Development Framework Core Strategy 2009

Policy 1:- Development in Hinckley seeks to ensure that there are a range of employment opportunities within Hinckley, allocates the land for the development of 6 hectares of new office space, within or adjoining the Hinckley Town Centre Area Action Plan boundary, requires transport improvements in line with Policy 5 and requires development to be of the highest environmental standards in line with Policy 24.

Policy 5:- Transport Infrastructure in the Sub-regional Centre sets out transport interventions which are proposed to support additional development in and around Hinckley. This includes improvements to the provision and management of car parking and public transport to increase the increased use of Hinckley town centre.

Policy 24:- Sustainable Design and Technology requires office developments to meet, at minimum BREEM (or equivalent) assessment rating of `very good`.

Hinckley and Bosworth Local Plan 2001

The site lies within the town centre of Hinckley, as defined in the adopted Hinckley and Bosworth Local Plan and within the overall Town Centre boundary.

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

EMP2: `Expansion of Existing Employment Uses` states that planning permission for development involving the expansion of existing firms will be permitted as long as they are acceptable in other capacities, such as in their design, layout, landscaping and they have no adverse impacts on the amenities of neighbouring residential properties. It does on that if

possible they should improve the character, appearance and quality of the site and its immediate environment.

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

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

Supplementary Planning Guidance/Documents

Hinckley Town Centre Area Action Plan

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

Spatial Objective 2 seeks to increase and improve accessibility within, to and from the town centre for pedestrians, cyclists and public transport and improve and rationalise car parking facilities in Hinckley town centre.

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

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

Other material policy guidance

Employment Land and Premises Study Review (2010) Classified site as A, with recommendation to move to B. Category B sites are defined as Fit-for-purposes employment areas. Regeneration policy may mean alternative development is appropriate, but to be resisted if possible.

Appraisal:-

The main considerations in respect of this application are the principle of development, the design and impact of the proposal on the character and appearance of the area and on the amenity of surrounding residential properties.

The Principle of Development

The principle of development for the erection of the four modular buildings is acceptable as this is an existing, established employment site which lies within the settlement boundary of Hinckley.

Design

The application proposes one large, long, flat roofed modular building with a footprint of 9.9m x 50.6m and a maximum height of 3.2m, and three smaller buildings, each with a footprint of 3.8m x 2.8m and a maximum height of 2.3m. The largest building will have windows on each elevation at regular intervals and will be finished in a Goosewing Grey colour. The three

smaller buildings will be finished in the same colour and will have openings on three elevations.

Due to their plain appearance and their regimented form and detail, the use of flat roofed modular buildings would not normally be considered favourably in terms of design. However as the proposed buildings will fulfil a functional need of the business, and will be situated centrally on this well screened site, their bland appearance and simplistic design is not considered to have any detrimental impacts on the visual amenity or character of the wider area. Further, there are other examples of similar buildings on site, in terms of design and colour and thus they will not appear out of place on the development. The scale of the buildings proposed is also in keeping with that of existing buildings on site.

Residential Amenity

There are 10 air conditioning units to be located on the southern elevation of the largest modular building. The Head of Community Services (Pollution) requested that additional details be submitted for these in order for the potential impacts in terms of noise to be assessed. These details have been received and sent to the Head of Community Services (Pollution) for further consideration. Based on the submitted details, it is felt that there will be no detrimental impacts in terms of noise on the surrounding residential properties.

As the building proposed is single storey, is well screened by the landscaping along the site boundaries and is a considerable distance from the surrounding residential properties, there will be no material impacts in terms of privacy.

Other Issues

Sustainability

Policy 24 of the adopted Core Strategy requires all development for Offices within Hinckley to meet, at minimum BREEM (or equivalent) assessment rating of 'Very Good' and from 2016 onwards BREEM (or equivalent) assessment rating of 'excellent'. No information has been submitted with this application to illustrate that the proposal will be constructed in accordance with these requirements. Thus the development is contrary to the intentions of this policy. Furthermore, it would be difficult to achieve the required standards, resultant of the modular construction proposed and the air conditioning units proposed. It is considered that in the absence of such evidence that it would be reasonable to impose a condition for temporary siting of the office accommodation to allow the applicant to look for a long term accommodation solution.

As the development will provide accommodation for existing employees it will not necessitate the requirement for additional parking and will not result in increased vehicle movements to and from the site.

Severn Trent Water have requested that a condition be imposed requiring the submission of drainage plans.

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

Conclusion

Although the design of the proposed buildings is simplistic, has a regimented appearance and limited detail, due to its siting within the centre of this large site, the screening provided by the vegetation along the sites boundaries and the buildings functional purpose, there are considered to be no material impacts in terms of visual or residential amenity which would justify refusal of the scheme. Therefore the proposal is considered acceptable and is in accordance with Policies BE1, T5, T9 and EMP2 of the adopted Hinckley and Bosworth Local Plan and Core Strategy Policies 1 and 5.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development by virtue of its scale, mass, siting and functional purpose will have no material impacts on either visual or residential amenity and is therefore considered acceptable.

Hinckley and Bosworth Local Plan (2001):- BE1, T5, T9 and EMP2.

Hinckley and Bosworth Local Development Framework: Core Strategy (2009) Policies 1, 5 and 24.

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Nos:- 110372/A/01 rev A, 10336, DQO689 rev O received by the Local Planning Authority on the 19 September 2011.
- 3 The office building hereby permitted shall be discontinued and the land restored to its former condition before 2 December 2014 unless in the meantime a further planning permission has been granted..

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 The office structure fails to comply with the BREEM (or equivalent) standards as required by policy 24 of the adopted Core Strategy and no evidence has been submitted to justify non compliance with policy. As such the structure is not one the local planning authority would wish to see retained on a permanent basis.

Notes to Applicant:-

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

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

Contact Officer:- Eleanor Shaw Ext 5680

Item: 07

Reference: 11/00755/FUL

Applicant: Mrs Margaret Ashby

Location: Land Markfield Lane Thornton

Proposal: CHANGE OF USE OF LAND FROM AGRICULTURAL LAND TO MIXED USE OF AGRICULTURAL AND EQUESTRIAN LAND AND RETENTION AND ERECTION OF ASSOCIATED BUILDINGS (PART RETROSPECTIVE)

Target Date: 23 December 2011

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, due to its site area.

Application Proposal

This application is for the change of use of land from agricultural to a mixed agricultural/equestrian use, and for the erection of associated buildings and parking area. The application is part retrospective, as horses are already grazed on the land and there are existing field shelters, areas of hard surfacing and a parking area.

The buildings comprise of two 3.6 x 3.6 metre open fronted field shelters, two 2.4 x 2.4 metre open fronted field shelters, one 3.6 x 3.6 metre stable, one 3.6 x 7.2 metre hay store, and one 3.6 x 3.6 metre feed/tool store. These buildings are to be grouped together and sited along the eastern side of the hard standing adjacent to the eastern boundary of the field. In addition the application seeks to retain the two areas of hard standing, located parallel to one another centrally within the field, and the gravel driveway and parking area.

Members may recall a comparable application was reported to Planning Committee in May. This proposed a similar scheme, however the siting of the built development differed in this application, to that currently proposed. The original submission included six field shelters which were spread over the land and a stable and store, a quarantine stable and a mare and

foal stable which were situated to the north western side of the largest area of hardstanding. The current proposal has reduced the number of buildings by two and has grouped all the development together (as outlined above). This application was refused by members on the following grounds:-

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

Since the refusal of the previous application, the applicant has entered into pre application discussions with the Local Planning Authority to understand how the reasons for refusal could be overcome. The submitted scheme seeks to overcome the previous objections.

The Site and Surrounding Area

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

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

Technical Document submitted with application

A Design and Access Statement has been submitted in support of the application, this provides a comprehensive explanation of the proposal, and a statement of need for all aspects of the proposed development. The applicant also demonstrates the lengths she has gone to, to overcome the previous reasons for refusal and has tried to answer any potential queries raised in respect of the scheme.

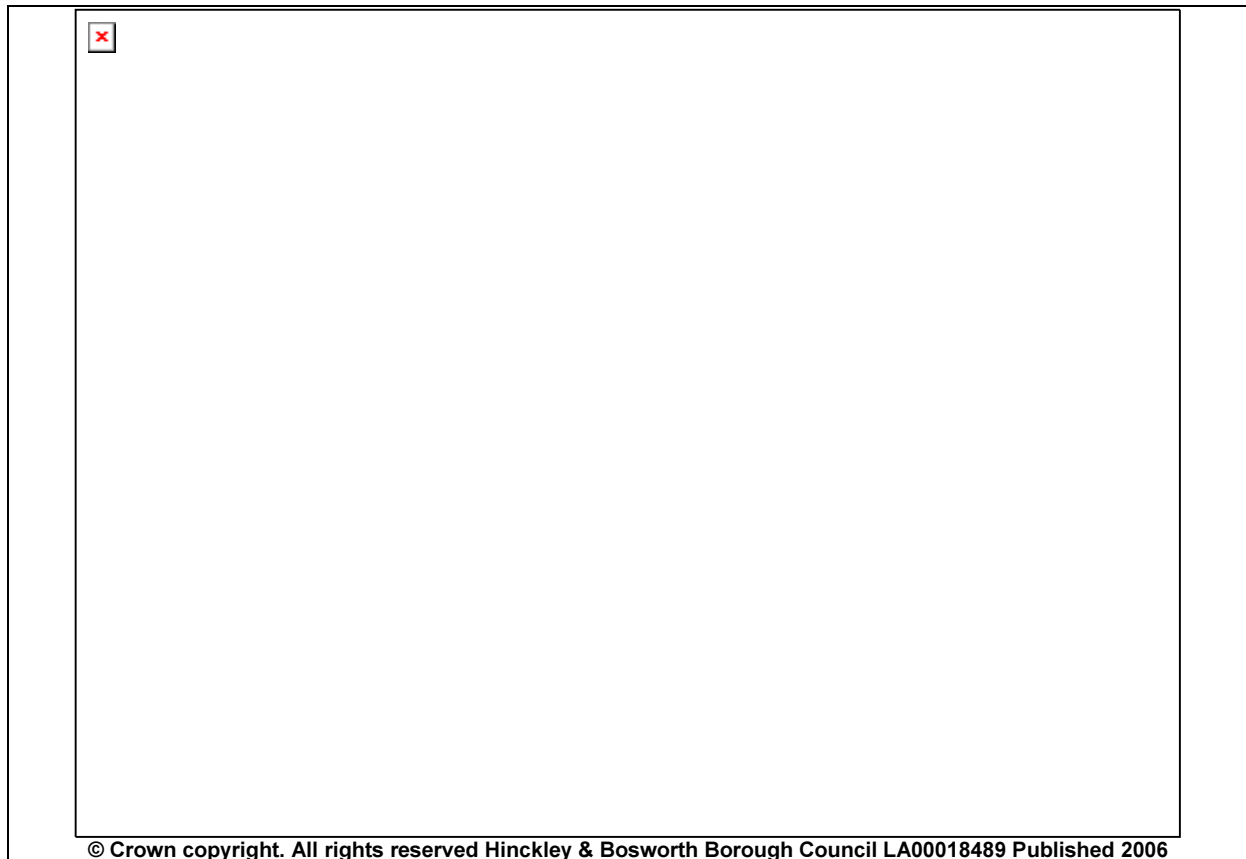
The applicant has provided a statement, seeking to overcome the members' previous concerns. This states that the total number of buildings applied for has been reduced and the buildings have been grouped, close to a boundary of trees to reduce the impact on the openness of the countryside.

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

Various plans and photos have been submitted illustrating the existing and proposed development, landscaping and new tree planting, the position of water courses and the access track and areas of hard standing.

History:-

11/00019/UNBLD	Enforcement Enquiry		
11/00153/COU	Change of use of land from agricultural land to mixed use of agricultural and equestrian land and retention and erection of associated buildings (part retrospective)	Refused	25.05.11



Consultations:-

No objection has been received from:-

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

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

Director of Environment and Transport (Highways) have no objection subject to the site being for private use only, however no condition has been suggested by them to secure this.

Bagworth and Thornton Parish Council have objected to the application on the grounds that the development will intrude into green corridor TH08 and that residents and the Parish Council do not wish to see this land used for anything other than agriculture.

One letter of neighbour representation has been received. This is supportive of the application stating that the works proposed and the tree and shrub planting will enhance and improve the area greatly.

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

National Forest Company
Ramblers Association.

Policy:-

National Policy Guidance

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

Planning Policy Statement 7 (PPS7): 'Sustainable Development in Rural Areas' sets out the Government's planning policies for rural areas. Paragraph 1 advises that new building development in the open countryside outside existing settlements should be strictly controlled in order to protect the countryside for its intrinsic beauty. Paragraph 32 relates to equine activities, recognising that horse riding and other equestrian activities are popular forms of recreation within the countryside that can fit in well with farming activities and can help diversify rural economies.

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'.

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change.

This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

The Community Infrastructure Levy (CIL) Regulations 2010, Part 11, Regulation 122 provides a statutory duty in respect of planning obligations and requires them to be necessary, directly related and fairly and reasonably related in scale and kind to the

development proposed. The Regulation does not replace Circular 05/2005 but gives it a statutory foothold in planning legislation.

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

Regional Policy Guidance

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the government's `Environmental report on the revocation of the East Midlands Regional Plan` published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies `saved` from the Local Plans by the Secretary of State remain extant for determining applications.

East Midlands Regional Plan 2009

None relevant.

Local Development Framework Core Strategy 2009

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

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

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

Hinckley and Bosworth Local Plan 2001

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

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

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

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

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

Supplementary Planning Guidance/Documents

None relevant.

Appraisal:-

The main considerations in the determination of this application are the principle of development, siting and design, impact on the character of the countryside and National Forest, highways and other considerations.

No weight can be given to the fact that elements of this application are retrospective.

Principle of Development

Government guidance contained within Planning Policy Statement 7 and adopted local plan policy NE5 seeks to protect the countryside for its own sake. This said it also recognises that certain forms of built and other development, including those related to equine enterprises and activities, can be appropriate in countryside locations. Accordingly there is support for such development subject to there being no harm to the character or appearance of the countryside, neighbouring properties, the environment or highway safety. The keeping of horses and 'hobby' farming, such as in this case, is a land use that is generally acceptable in principle in countryside locations, and the provision of stables and associated storage for the health and welfare of the animals is not unreasonable and is also generally acceptable in principle.

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

Impacts on the Countryside and National Forest

Originally the land in question would have comprised large fields of open rolling pasture land, bound by native hedgerow. As a consequence of the existing development, the character of the land has changed through its subdivision into smaller paddocks, the creation of areas of hard standing and the siting of field shelters. It is accepted that through the development of land for equestrian activities, some of its original rural character has been eroded; however it needs to be considered whether the impact of the development would be materially detrimental to the character and appearance of the landscape.

In respect of the hard standing and access track; although the areas of such are relatively large, their surfacing, is of a temporary nature which will become increasingly vegetated over time, and although there may be slight views of these areas from the reservoir to the south, due to the rolling nature of the land and the vegetation along the southern boundary, the hard surfacing will only be partially visible and will appear against the backdrop of the land.

There is no planning control over the sub-division of fields. However the existing post and wire fencing has a minimal visual impact, and although the tape fencing is visible fence, this is temporary and so will have no lasting impact on the landscape. Accordingly impacts on the character of the countryside are not considered to warrant refusal of the scheme.

In respect of the field shelters and stables, these are of wooden construction and have green steel roofs. They vary in size (as detailed within the introduction). Although these structures will be visible within the landscape, their materials and colouring will aid their assimilation into the surrounding landscape. Further, due to the sites screening and the lay of the land, they will not be visually prominent from either Markfield Lane or Thornton Reservoir. In addition, many of the fields in the surrounding area are used for equestrian activities, and thus the provision of field shelters and stables do not appear as alien structures within the wider setting and are not considered to have a detrimentally harmful impact on the character of the countryside or National Forest.

Policy 21 of the adopted Core Strategy requires landscaping proposals to accompany new developments. The applicant has provided a detailed account of the planting which has been undertaken on the site, This includes:-

- a) additional hedging along the north side of the field, to help screen the site from the footpath
- b) planting along the eastern and southern side of the hardstanding, which will provide a wildlife link and will also help screen the development
- c) an orchard comprising of 20 parkland trees in the north eastern corner of the hay field and
- d) 473 broad leaved trees, shrubs and hedging trees which will contribute to the National Forest
- e) strategy, will further screen the development and will increase biodiversity in the area.

Accordingly the level of landscaping undertaken is considered to be sufficient and in accordance with the intentions of Policy 21.

Due to the density of the hedgerow surrounding the site, and the low heights of the development in question, it is considered that the development will be effectively screened and will not have an adverse impact on the character or appearance of the National Forest or

the surrounding countryside. Accordingly, due to the amount of planting which has been undertaken, it is not considered necessary to require a landscaping condition in this case.

Siting and Design

Since the previous application, and in line with pre application advice, the stables and associated buildings have been re-sited. The stables and storage building which were originally sited to the north west of the larger area of hard standing have been removed, and the development has been grouped together and positioned to the north east of the larger area of hardstanding. This reduces the amount of visual clutter on the landscape and further encroachment into the open undeveloped countryside. Accordingly the siting of the buildings is considered acceptable. In respect of the design of the buildings, they are of typical stable design, size and material and are of an appropriate scale for the size of the development and number of animals on site.

Accordingly they will not appear out of place within the local context and are considered acceptable.

Highways

The sites access and parking provision is existing and both are considered adequate for the development in question. The Director of Environment and Transport (Highways) has commented that they have no objections subject to the site being for private use only. As the site is for private use, no condition is considered necessary to ensure this.

Other Issues

For the avoidance of doubt a statement has been provided by the applicant to inform members of how the Charity which she runs operates, and its connection with the site.

The charity is for children with Cancer and is know as Charlotte's Smiles. The charity provides fun activities and parties for children with Cancer. The charity owns three ponies. Occasionally, a child registered with the charity and their family come to visit the ponies for therapeutic petting and grooming. This has occurred three times in the past year and is not expected to increase. In addition to this, two small fund raising pony parties were held on the land in 2010.

Between the months of March to October some ponies are taken out for charity work and pony parties.

In addition to the above activities the applicant's family visit the site to ride and pet the ponies. There are currently 9 horses on the land, two of which are in foal and the applicant has 2 horses on loan which could return at any point.

The applicant has stated that they do not intend to use the ponies for any business use on the land. Ponies used for pony parties are taken off the site in the same way that donkeys are taken to the beach to work. Any web sites previously showing 'our venue', referred to the hiring of our favourite venue which was the Battram Access Centre and this can be proven by receipts.

Based on the above, it is not considered that any business operations are taking place on site. Although some of the applicants horses are used for business purposes, as is true for many establishments where horses provide a stream of income, such as when they are used for competition purposes (for example as show ponies or dressage). Here the horse may be owned privately and kept on the owners land. The animal may then be taken to compete a

number of times a week. This situation is considered to be no different, the animals which are used in connection with the charity are simply homed on the land and this is not considered to have any further impacts in terms of land use, than that of any other horse. The charity which the applicant operates is not considered to have any relationship in planning terms to the scheme being applied for.

For the avoidance of doubt, the caravan which was previously sited on the land has been removed and there are no toilet facilities on site.

In respect of the concerns raised by the Parish Council, the application site encroaches into the Green Corridor land by 22 metres along the far southern side of the field adjoining the reservoir. However no built development is proposed in this area; the land comprises woodland and it is the applicants' intention to plant additional woodland and wild flowers. Accordingly the proposal will not compromise the intentions of the Green Corridor, as it will be left undeveloped and as a habitat for wildlife. Thus, there are considered to be no material impacts on this designated area of land.

Conclusion

In conclusion, the change of use of the land to part equestrian and the siting of the associated buildings and hardstanding is considered acceptable within this countryside location. By virtue of the siting, design, materials proposed, landscaping undertaken and screening of the site, the proposed development is not considered to be harmful to the character and appearance of the open countryside, and will have no adverse impacts on highway safety. Accordingly the proposed development is considered to be in accordance with policies BE1, NE5, NE2 and T5 of the adopted Hinckley and Bosworth Local Plan, Core Strategy Policies 10, 20 and 12 and Planning Policy Statement 7.

RECOMMENDATION:- Permit subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

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

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

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Drg Refs:- Drg Nos:- 60 and 100 received by the Local Planning Authority on the 16 October 2011, Drg Nos:- 70, 70 A, 80, 80 A, 90 received by the Local Planning Authority on the 17 October 2011, Drg N0:- 100A received by the Local Planning Authority on the 3 October 2011.

- 3 The development hereby permitted shall be carried out in complete accordance with the schedule of materials stated in the planning application form.
- 4 Within three months of the date of the decision notice, the stables, storage building and field shelters illustrated on plan numbers 40 and 50, received by the Local Planning Authority on the 16 September 2011 shall be removed.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the building is in keeping with its surroundings in the interests of visual amenity, in accordance with policy NE5 and policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 4 In the interests of visual amenity and to protected the character of the countryside, in accordance with Policy NE5 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Eleanor Shaw Ext 5680

Item: 08
Reference: 11/00892/COU
Applicant: Mr John Roberts
Location: Chief Executives Office Upper Bond Street Hinckley
Proposal: CHANGE OF USE FROM MAGISTRATES ADMINISTRATION OFFICE TO POLICE STATION (SUI GENERIS)
Target Date: 6 January 2012

Introduction:-

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

Application Proposal

Full planning permission is sought for the change of use from Magistrate's administration office to a Police station. The existing Police station occupying the corner of Upper Bond Street and Hollycroft is set to relocate to the adjacent administration building, which falls within the Magistrate's site. The building is currently vacant.

The change of use does not involve any material changes in the external elevations of the building, however there will be internal alterations at first and second floor.

- First floor:- A canteen in lieu of male toilets, a new stairwell in lieu of female toilets, interview room in lieu of storage and;
- Second floor:- The creation of a new stairwell, male and female toilets, showers and locker rooms and drying, storage and cleaner areas.

The building is three storeys with undercroft car parking, accessed to the south side of the building, facing the Police station.

The Site and Surrounding Area

The site is located to the west of Upper Bond Street and is immediately adjoined to the north by the Hinckley Magistrates Court and to the south by Hinckley Police Station. Residential properties are located to the rear of the site along Factory Road, and to the east along the eastern side of Upper Bond Street.

The site is located within the settlement boundary of Hinckley, as defined by the adopted Hinckley and Bosworth Local Plan. The building is outside of the boundary of the Hollycroft Conservation Area, however the access to the undercroft car park and police station fall within the Hollycroft Conservation Area.

Technical Documents submitted with application

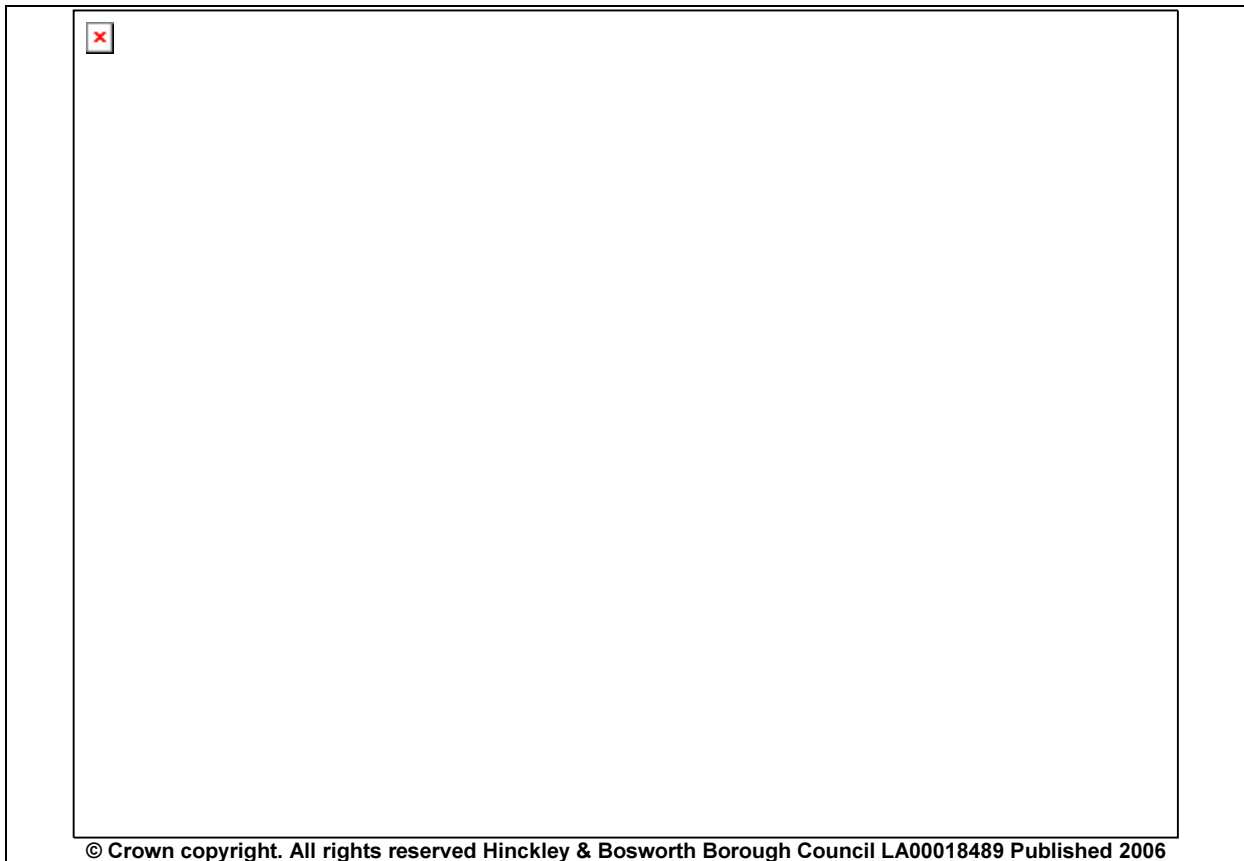
The application is accompanied by a Design and Access Statement which states that the parking arrangements and employment patterns will not differ from that of the current police station. The Design and Access Statement details the vehicles and staff used:-

- a) The constabulary currently has 6 general response vehicles, 1 van, 1 beat bus, 2 CID cars and 2 plain cars
- b) The undercroft car park will be retained for 25 staff cars and 10 police cycles
- c) The station will be open 24 hours a day with the number of staff varying throughout the day, 5 full time administration staff and 2 uniformed reception staff, working 9-5.30; a maximum of 5 CID staff on each shift and up to 12 other members of staff for short periods during shifts.

The applicant has provided additional information in respect of the access arrangements and have concluded that an alternative access would not be feasible in anyway, however the constabulary would be happy to allow access to the four parking spaces associated with the current police station building, and would ensure that the access is maintained and that new occupants of the current police station could be provided with fobs to gain access into their parking area. The applicant has also confirmed that the first floor level car park will also be utilised by the potential new occupants.

History:-

11/00768/COU	Change of use from magistrates Administration office to police station	Withdrawn	28.10.11
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Consultations:-

No objection has been received from:-

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

The consultation period remains open at the time of writing and closes on 14 December 2011. Any further consultation response received before the closing date will be reported and appraised as a late item.

Policy:-

National Policy Guidance

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

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

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

The National Planning Policy Framework (Draft)

The draft National Planning Policy Framework was published for consultation on 25 July 2011.

The government's intention is to reduce the current 1,000 pages of national planning policy [some of which are referred to above] into a 'clearer, simpler, more coherent framework, easier to understand and easier to put into practice'.

The Inspector in a recent inquiry considered that although the draft was a material consideration he gave it little weight because it is a consultation and subject to change.

This approach was accepted by the Secretary of State in a letter of 24 October 2011, in his consideration of the inspector's report.

The current national policies therefore continue to apply with significant weight.

Officers will continue to advise on the progress of this consultation and update members on that progress.

Regional Policy

The Localism Act received the Royal Assent on 15 November 2011 and part 6 is the key section referring to regional strategies.

In so far as Hinckley and Bosworth Borough Council is concerned, it should be noted that the Secretary of State has power by Order to revoke existing regional strategies, in Hinckley's case, the East Midlands Regional Plan 2009. That power is effective from the date of Royal Assent, but the specific proposals and timing of a revocation order are not yet known.

Until that revocation the East Midlands Regional Plan remains a material planning consideration but the weight to be given to its provisions is as always a matter for the committee. However, the coming into force of the Act, the power given to the Secretary of State to revoke the Plan, and the government's 'Environmental report on the revocation of the East Midlands Regional Plan' published in October 2011 obviously have an impact on the weight to be given to the Plan.

That said, members should be aware of proposals set out in the Environment report in relation to which documents would form the relevant development plan for Hinckley if the regional strategy and saved structure plan policies were revoked.

These are the following:-

- a) Hinckley and Bosworth Core Strategy
- b) Hinckley Town Centre Action Plan
- c) Hinckley and Bosworth Local Plan (with the annotation in the report that until all elements of the LDF are adopted some of the policies 'saved' from the Local Plans by the Secretary of State remain extant for determining applications.

Local Development Framework Core Strategy 2009

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

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

Hinckley and Bosworth Local Plan 2001

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

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

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

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

Other Material Policy Guidance

The Hinckley Town Centre Area Action Plan (AAP) was adopted through Full Council on 21 March 2011, as such, it currently forms a formal development plan document for Hinckley Town Centre as part of the Local Development Framework. The boundary within the Hinckley Town Centre Area Action Plan (AAP) also reflects that of the Local Plan, and as such the sites fall outside of the town centre and settlement boundary of Hinckley on both accounts.

Appraisal:-

The main considerations with regards to this application are the principle of development, impact upon the character and appearance of the Conservation Area, impact upon residential amenity, highway considerations and other matters.

Principle of Development

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

The application proposes a change of use from a Magistrate's administration office (Use Class Sui Generis) to a Police station (Use Class Sui Generis). The accompanying Design and Access Statement has confirmed that the existing employment patterns within the adjacent police station are set to remain and there are no alterations to the existing access arrangements.

Therefore the only issue with the change of use of the building relates to the hours of operation, as a result of the change of use from Magistrate's administration office to Police station. It is considered that the building would be in operation for 24 hours, which is considered to be an increase from that of the previous use as the administration office. For the reasons discussed later in the report it is not considered that this results in any material impacts.

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

Impact Upon the Character and Appearance of the Conservation Area

The access drive to the south of the site is located within the Hollycroft Conservation Area. It is a statutory requirement that any new development should at least preserve the character of the Conservation Area.

There are no external alterations proposed to the building and there are no alterations to the existing access, drive and parking arrangements and therefore in the absence of any external changes the development would preserve the character and appearance of the Conservation Area. Accordingly the development is not considered to significantly impact upon the character and appearance of the Hollycroft Conservation Area. It is therefore considered that this is in accordance with guidance within PPS5 and Saved Policy BE7 of the adopted Hinckley and Bosworth Local Plan.

Impact on Residential Amenity

There are residential properties to the west along Factory Road, and to the east along the eastern side of Upper Bond Street.

The employment patterns and hours of use are also to remain the same as the adjacent Police station and therefore there will be occupation in this building over the 24 hour period. Therefore it is acknowledged that there would be an increase in the level of noise from this building into the late evening and early morning hours as a result of the proposed use. However, it is considered that the use of this building as a police station would not result in any significant impacts upon the occupiers of neighbouring dwellings, over and above that exerted by the existing adjacent police station. As such the impact to the occupiers of neighbouring dwellings in the area will remain the same.

The Police currently use both the police station site and the undercroft car park for parking of vehicles. The police, as potential future occupants of the building are set to utilise the undercroft car park and the area to the rear of the site at first floor level. It is not considered that there would be any significant impacts as a result of the potential use of an additional 12 car parking spaces in this location given that dwellings are located some 25 metres away.

It is therefore considered that there would not be any significant impacts as a result of the proposed use, upon the occupiers of the neighbouring dwellings, over and above that exerted by an existing use within the immediate vicinity. This is also supported by Head of Community Services (Pollution). Accordingly the scheme is considered to be in accordance with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Highway Considerations

There are no alterations proposed to the two access points within the site, to enable access to both the first floor parking to the rear and the undercroft car park.

For the avoidance of doubt there are currently 12 car parking spaces at first floor car park which will be used by the potential occupiers of the 'New Police Station'. The existing undercroft car park at the existing magistrate's administration office building, currently used by the staff at the adjacent police station are set to be retained and continued to be used by the occupiers of the 'New Police Station'. As such the access to and parking arrangements for the undercroft car park are set to remain as they currently operate, with the addition of 12 car parking spaces at first floor level. Failure to utilise the undercroft car park means that there would be an under provision of car parking spaces and therefore contrary to Saved Policy T5 of the Local Plan.

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

Accordingly it is considered that there is no change in the level of car parking provision in respect of the undercroft car parking, with an additional 12 spaces at first floor level. As such, the scheme is considered to be in compliance with Saved policy T5 of the adopted Hinckley and Bosworth Local Plan.

Conclusion

In conclusion, the building is located within the settlement boundary of Hinckley, where there is a presumption in favour of development subject to all other matters being addressed. The change of use would not give rise to any significant material impacts upon the occupiers of the neighbouring dwellings or highway safety and is considered to preserve the character of

Hollycroft Conservation Area. No other material impacts have been identified that would indicate that the proposal is not in compliance with local development plan policies. Accordingly the application is recommended for planning permission, subject to the imposition of planning conditions.

RECOMMENDATION : - That subject to no new significant material observations being received by the end of the consultation period expiring on the 14 December 2011, the Deputy Chief Executive (Community Direction) shall be granted delegated powers to grant planning permission for the development subject to the following conditions:-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

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

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

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

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the details: site plan and site location plan Drawing No. M5234/A/001.1; proposed works Drawing No. M5234/A/050.0 and existing parking Drawing No. M5234/A/002.0 received by the Local Planning Authority on 11 November 2011.
- 3 The car parking spaces within the undercroft car park, as show in Drawing No. M5234/A/002.0 shall be made available for use and shall not be obstructed. They shall thereafter permanently remain available for car parking.
- 4 Prior to the first use of the building, a Car Parking Management Plan shall be submitted to, and approved in writing by the Local Planning Authority. This plan shall include details of the management and operation (including any vehicular access gates, barriers or other such obstructions) and allocation of car parking spaces. The approved management plan shall then be brought into operation upon the first use of the building.

Reasons:-

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that adequate off-street parking facilities are available to accord with Policy T5 of the adopted Hinckley & Bosworth Local Plan.

- 4 To reduce the possibilities of development of the site leading to on-street parking problems in the area to accord with Policy T5 of the adopted Hinckley and Bosworth Local Plan.

Notes to Applicant:-

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

Contact Officer:- Ebony Mattley Ext 5691

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PLANNING COMMITTEE – 13 DECEMBER 2011

REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION) RE: BURBAGE CONSERVATION AREA STATEMENT & MANAGEMENT PLAN

1. PURPOSE OF REPORT

- 1.1 To seek Members' approval to adopt the Conservation Area Statement and Management Plan for the conservation area in Burbage.

2. RECOMMENDATION

That Members adopt the Conservation Area Statement and Management Plan for Burbage as Planning Guidance.

3. BACKGROUND TO THE REPORT

- 3.1 The conservation area in Burbage was declared in February 1973. A Conservation Area leaflet was produced at that time which sets out the extent of the Conservation Area, and gave brief information about the impact of designation on property owners in the area. The information provided in the leaflet is similar to that provided for all Conservation Areas in the Borough at that time.
- 3.2 As reported to the Planning Committee on 2nd February 2007, it is intended to review all Conservation Areas in the Borough and issue a Conservation Area Statement and Management Plan for each area. The statement will assess the significance of the designated area and analyse how that significance is vulnerable to change. Its aim is to preserve and enhance the character of the area and to provide a basis for making sustainable decisions about its future through the development of management proposals. The documents will provide a description of the historical development of the settlement, set out the important features of the conservation area which should be protected and indicate the planning guidance and policies which apply to new development in the area.
- 3.3 The benefits of a comprehensive appraisal of a conservation area are that it will provide a sound basis for development control decisions, for protecting our local heritage, for developing initiatives to improve the area and as an educational and informative document for the local community.
- 3.4 The Management Plan for the conservation Area will take the form of a mid to long term strategy for preserving and enhancing the conservation area. It will address the issues and make recommendations for action arising from the statement and identify any further detailed work needed for their implementation. It will also set out specific enhancement schemes for the public realm and aim to secure the repair of important heritage features and buildings in the area. The plan will also include a photographic survey, which will be used as a mechanism for monitoring future change in the designated area.
- 3.5 The Conservation Statement and Management Plan Burbage has recently been completed by officers of the Council. A public meeting was held at the Burbage Congregational Church Hall on Tuesday, 8 November 2011 from 16.15 - 19.30 which was very well attended by local residents and Parish Councillors. The documents were also made available on the Council's Web Site.

4.0 FINANCIAL IMPLICATIONS (CB)

4.1 There are none arising directly from this report. Any costs involved in the preparation and adoption of the Statement and Plan will be met from existing resources. Specific enhancement schemes would need further approval as set out within the Council's financial regulations.

5.0 **LEGAL IMPLICATIONS (MR)**

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

6.0 **CORPORATE PLAN IMPLICATIONS**

6.1 The preparation of the Conservation Area Statement and Management Plan both meet Strategic Objective 7 of the Corporate Plan.

7.0 **CONSULTATION**

7.1 At Burbage, the exhibition was held at the Congregational Church Hall on Tuesday, 8 November 2011. The display included the study findings and future management recommendations illustrated by photographs, drawings and maps.

7.2 The exhibition generated a lot of public interest. The displays also gave the opportunity to provide additional information about the purpose of Conservation Area designation, the impact of the additional controls over land and property, and guidance regarding the type of development that is acceptable.

7.1 The exhibition was subsequently transferred to the Burbage Library where it was on public display between 10th and 21st November 2011. The exhibitions were extremely well received by residents, all of whom fully supported the conservation proposals.

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

8.0. **RISK IMPLICATIONS**

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

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

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

8.4 The key risks of not endorsing and implementing the Conservation Area Statement and Management Plan, are not meeting performance targets and the Council not being recognised for the good achievements of its Conservation Service and not protecting our local heritage.

9.0 **KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS**

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

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

10.0 **CORPORATE IMPLICATIONS**

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

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

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

Contact Officer: Barry Whirrity, ext 5619

APPENDIX A

BURBAGE CONSERVATION AREA

SUMMARY OF CONSULTATION RESPONSES.

There was general support for the aims and objectives of the Conservation Area Appraisal and Management Plan from approximately 40 residents who attended the public exhibition. It was felt that the proposals put forward to preserve the important elements of the Burbage Conservation Area were generally sound and will help to resist unsympathetic development.

Three requests were made to extend the Burbage Conservation area to include Winsor Street, Salem Road, Grove Road and the length of Aston Lane running up to the gateway into 'Bate's' field. It is considered that conservation area designation will give the same level of protection and enhancement to these areas helping to give a consistency of decision making when proposed developments are considered.

Windsor Street is considered to be the village's major social centre embracing public houses, restaurants, takeaways and a variety of shops. The Methodist Church provides meeting facilities and accommodates the Farmers' Market each month. The Parish Council's Offices, Village Playingfield and Scout Hut are all located close by together with a large car park.

Salem Road has a well preserved terrace of old houses that should be protected from adverse development.

Grove Road has a mix of fine mature dwellings on its south side set in spacious gardens enclosing a variety of trees. Although not boasting any listed buildings, a number of the older properties are considered to have kept their traditional characteristics both inside and out. The trees in Sycamore's Gardens and in the infant school field should be protected.

Aston Lane is a tree lined embanked track used by walkers that gives rise to occasional attractive views across open countryside and Burbage Woods. *The extensions suggested are noted and will be considered at the completion of the current review programme when all proposed Conservation Area boundary changes will be evaluated.*

One resident felt that the Burbage Conservation Area helps define the character of the whole village and would like to see guidelines on appropriate features such as windows, doors etc to help encourage home owners to use appropriate materials when modernising their properties. *The Borough Council's Planning Officers often give advice to residents on design matters for properties in conservation areas and encourage the use of natural materials.*

It is considered that conservation area status has not worked in the past to retain important open spaces in Burbage. Several have been lost due to development being allowed. *The original Conservation Area leaflet did not indicate which features are important to the character of the Conservation Area and should be protected. However the new appraisal map clearly identifies important green spaces in the conservation area which is a material consideration in planning applications.*

Hedges overhanging the footpath on Aston Lane both at the Manor House and Burbage Hall are causing problems for pedestrians. *This is a matter for the County Highway Authority to consider.*

Parking was a major issue raised by residents and was felt that this matter should be given more emphasis in the conservation area appraisal. Major parking problems were highlighted in the evenings in the vicinity of St Catherine's Church, the Constitutional Club and Congregational Church / Horsepool. Another area highlighted was at the entrance to Aston Lane. A couple of residents felt that residents should be given priority parking possibly by the use of parking permits which could help avoid unnecessary congestion. *On-street parking is the responsibility of the County Highway Authority. The provision of Off-street parking facilities are a matter that the Borough and Parish Councils can consider. A paragraph on parking problems and their effect on the village environment will be included in the appraisal.*

Another concern raised is the size, volume and speed of traffic using Church Street. It is suggested that traffic calming measures are introduced that would be beneficial to the overall street scene. *This issue is the responsibility of the County Highway Authority. However, the sub standard interchange at Junction 2 on the M69 that has no access onto the motorway for traffic heading south or leaving the motorway travelling north, encourages more through traffic onto Burbage's main roads therefore exacerbating the traffic situation. It is suggested that pressure is applied for the junction to be upgraded to the standard of a normal motorway junction.*

One resident enquired whether Aston Lane was an adopted highway. *The road is adopted as far as the access to Cottage Farm. However, it is only suitable to take traffic as far as the corner fronting Burbage Hall. Beyond Burbage Hall, the road becomes a track and should only be used by farm vehicles.*

Several residents were upset with the development proposals at Moat House and felt more consultation should have taken place with village residents. The proposed properties, in particular the materials for construction, should have been designed to reflect the traditional character of the conservation area. *Following the statutory consultation period, Development Control Offices at the Council sought to ensure the development is in keeping with other buildings in the Conservation Area and will ensure that the brick and roof covering materials are traditional in appearance.*

One resident was disappointed that the management plan is putting forward changes retrospectively. He felt that if local council's had more control over proposals in conservation areas many of the issues raised in the management plan would not have arisen in the first place. *When making decisions on proposals in its conservation areas, the Borough Council has to make them having regard to current regulations set out in conservation area legislation.*

It was pointed out by a resident that the original name of the property known as 'The Croft' was 'The Moat House'. It appears the Mansion was built by the 'Wightman's' after selling their home, 'The Old Grange' in Aston Lane in the early 16th Century. The Moat House and its park are mentioned in the 'History of Leicestershire'. The resident remembers restoring a window in the 'The Old Grange' many years ago. He suggests that the 'Moat House, although not in its original state through the alterations of later owners, should be designated of being of historical interest. *The information is noted and subject to checking for accuracy, will be incorporated into the appraisal.*

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PLANNING COMMITTEE – 13 DECEMBER 2011

REPORT OF THE DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)

RE: LAND AT STRETTON CROFT, WATLING STREET, BURBAGE

1. PURPOSE OF REPORT

To inform Members of an application for outline planning permission currently under consideration by Rugby Borough Council and to seek Members views on further representations to be made to that authority.

2. RECOMMENDATION

Hinckley and Bosworth Borough Council objects to the proposal on the following grounds:

- 1) the Sequential Site Analysis document fails to demonstrate why this Greenfield site, outside of a defined settlement boundary, is sequentially preferable.
- 2) the development is contrary to Rugby Core Strategy Policy CS1, or paragraph 2.10.
- 3) the proposal is considered to be contrary to Spatial Objectives 1 and 2 along with Policies 1, 2, 3 and 4 of the Hinckley and Bosworth Core Strategy.

3. BACKGROUND TO THE REPORT

- 3.1 In 2008 a pre-application enquiry was received by this Council from an agent (Montagu Evans) on behalf of a developer (Kendrick Developments Limited) in respect of the potential development of an area of land measuring approximately 6.4 hectares that traversed the administrative boundaries of both Hinckley and Bosworth and Rugby Borough Councils. The land in question, known as Stretton Croft, is located outside the settlement boundary of Burbage in the countryside to the north of the M69, to the south west of the A5 Watling Street and to the east of the 'old' Wolvey Road. The majority of the site (4.1 hectares) was located within Rugby Borough.
- 3.2 The developer is promoting the development of the extent of land within the Hinckley and Bosworth Borough boundary through the Local Development Framework process.
- 3.3 A valid outline planning application was submitted to Rugby Borough Council (their reference R11/0239) in respect of that part of the land within

- that borough on 31st March 2011. The application relates to a mixed use development comprising of Class B1 (Offices and Light Industry) uses, Class C1 (Hotel Development) use incorporating a Class A3 (Restaurant), Class D2 (Assembly and Leisure) uses and associated car parking and landscaping. A consultation letter in respect of the application was sent to Hinckley and Bosworth Borough Council on 5 April 2011.
- 3.4 A formal response was sent to Rugby Borough Council on 20 April 2011 advising that this authority considered that the proposed development was contrary to national planning guidance contained in Planning Policy Statement 7: Sustainable Development in Rural Areas, Planning Policy Statement 4: Planning for Sustainable Economic Growth and Planning Policy Guidance 13: Transport along with 'saved' local plan policies of the Rugby Local Plan. A copy of the response is attached to this report in Appendix A.
- 3.5 A copy of a Sequential Site Analysis Report dated July 2011 submitted to support the application was forwarded to Hinckley and Bosworth Borough Council for comment on 9 September 2011. This document seeks to provide an analysis of the availability, suitability and viability of other sites within the surrounding area in both Warwickshire and Leicestershire and the sustainability of each location, including its level of access to a variety of modes of transport, particularly public transport, in order to adequately explain why the proposed site is considered to be a better option.
- 3.6 The site is identified on the Proposals Map of the adopted Rugby Borough Council Local Plan as being in the countryside where Policy CS1 of the Rugby Borough Council Core Strategy Development Plan Document (2011) is relevant. Policy CS1 relates to 'Development Strategy' and states that: "The location and scale of development must comply with the settlement hierarchy. It must be demonstrated that the most sustainable locations are considered ahead of those further down the hierarchy." Policy CS1 provides a clear sequential approach to the selection of sustainable locations for development and seeks to direct such proposals towards the 'Rugby Urban Area' which it identifies as the primary focus for meeting strategic growth targets. In relation to the 'Countryside' the policy states that; "New Development will be resisted; only where national policy on countryside locations allows will development be permitted."
- 3.7 The Rugby Borough Council Planning Policy Section in their comments on the application acknowledge the sites countryside location and its remoteness from the 'Rugby Urban Area' and that any development of the site would be contrary to the development strategy set out in the Core Strategy and would not assist in achieving sustainable development focused on Rugby Town. The comments also state that sufficient employment land has been identified within their Borough to meet Core

Strategy requirements up to 2026. However, the comments then refer to Paragraph 2.10 of the Core Strategy which accompanies Policy CS1 which suggests that although locations such as the Stretton Croft site are specifically excluded from the hierarchy within Policy CS1 due to their location within the Rugby Borough, they could be considered as sustainable locations for development due to their proximity to urban areas outside of the Rugby administrative area. It also states that any such proposals would be judged on its merits in partnership with the relevant neighboring Local Planning Authority. As a result of this the Rugby Planning Policy Section suggest that further assessment and comments be sought from Hinckley and Bosworth Borough Council on the sites assessed in the Sequential Site Analysis that fall within Hinckley and Bosworth Borough Council's administrative area.

- 3.8 Officers have therefore assessed the sites within the Sequential Site Analysis document and have some reservations regarding the findings of the assessment. It is considered that the applicants have assessed a number of sites, including all those identified within the Hinckley Town Centre Area Action Plan. However, there are concerns regarding the assumptions made on two of these sites.
- 3.9 The assessment of the Stockwell Head site (identified as area 34) states that "it is likely that any redevelopment of the site in line with the Council's aspirations will be led by residential development". This does not reflect the wording of Policy 2 of the Hinckley Town Centre Area Action Plan which identifies the site for mixed uses including Class B1 office floor space and residential units, i.e. not a residential led development. The assessment also concludes that the site is not considered appropriate for the scale and nature of B1 uses proposed. The assessment provides no clear explanation for the conclusion reached.
- 3.10 The assessment of the Hinckley Railway Station site (identified as area 40) makes reference to a draft version of the Hinckley Town Centre Area Action Plan despite the document being adopted in March 2011. There is also confusion regarding the assumptions made in this assessment as, although the Area Action Plan identifies this site as being appropriate for a Class B1 office led development due to its location adjacent to the railway station, the assessment states that this is not considered viable or appropriate for the scale and nature of B1 uses proposed. The assessment provides no clear explanation for the conclusion reached.
- 3.11 It is considered that there is insufficient information provided within the Sequential Site Analysis document to demonstrate why this Greenfield site outside of a defined settlement boundary is sequentially preferable to these two sites.

- 3.12 Within Rugby Borough Council's policy response to the case officer, the officer states that "the Borough Council is mindful of the site's location on the edge of Hinckley, and that locations such as the Stretton Croft site can be seen as sustainable". This statement implies that this site is on the edge of Hinckley which it is not. This site is also not well located in relation to the existing urban area. The site is over 800 metres from any local centre within Burbage (see the HBBC SHLAA). This would result in users of the site driving to their nearest centre, creating additional traffic on the A5 and Rugby Road which are already extremely busy. Furthermore, the A5 is a significant physical barrier between the site and the settlement of Burbage. These factors demonstrate that this site is not sustainable when assessed against Rugby Core Strategy Policy CS1, or paragraph 2.10.
- 3.13 The absence of references to the policy objectives of the Hinckley and Bosworth Core Strategy (December 2009) is a significant concern. Although it is not considered that this site relates well to either Burbage or Hinckley, this has been the applicant's key reason for describing this site as sustainable yet no assessment against the policies in Hinckley and Bosworth's development plan has been made. The Core Strategy identifies that Hinckley, as a Sub Regional Centre, should be the focus for economic development in the borough, with the rest of the urban area (Barwell, Earl Shilton and Burbage) playing a supportive role. This is outlined in Spatial Objectives 1 and 2 along with Policies 1, 2, 3 and 4. The proposal is considered to be contrary to these policies and therefore, the Spatial Vision of the Hinckley and Bosworth Core Strategy.
- 3.14 In addition to the concerns raised previously, the applicant themselves acknowledge that this site cannot be supported by policy. Paragraph 2.19 of the Sequential Site Assessment document states that "the location of the site, together with its brownfield credentials, merits the subject proposals consideration as an exception to the strict application of policy". This statement acknowledges that the development is contrary to the development plan and as such, should be refused planning permission.

4. FINANCIAL IMPLICATIONS

5. LEGAL IMPLICATIONS

6. CORPORATE PLAN IMPLICATIONS

None.

7. CONSULTATION

None, this is a consultation from Rugby Borough Council.

8. RISK IMPLICATIONS

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

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

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

Management of significant (Net Red) Risks		
Risk Description	Mitigating actions	Owner
Determination of the application by Rugby BC contrary to the advice provided by HBBC	To provide a detailed consultation response to Rugby Borough Council endorsed by Members	Simon Wood
Request for support in subsequent appeal if application was to be refused by Rugby BC- resource implications	Advise Rugby Borough Council of HBBC position in this respect	Simon Wood

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

None.

10. CORPORATE IMPLICATIONS

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

- Community Safety implications [ext 5832]
- Environmental implications [Jane Neachell, ext 5968]
- ICT implications [Paul Langham, ext 5995]
- Asset Management implications [Malcolm Evans, ext 5614]

- Human Resources implications [Julie Stay, ext 5688]
- Voluntary Sector [VAHB]

Background papers: Rugby Borough Council Planning Application reference
R11/0239 – William Kendrick and Sons Limited.

Contact Officer: Richard Wright Extension 5894

Steve Atkinson MA(Oxon) MBA MioD FRSA
Chief Executive



Please Ask For: Mr R. Wright
Direct Dial/Ext: 01455 255894
Direct Fax:
Email: richard.wright@hinckley-bosworth.gov.uk
Your Ref: R11/0230
Our Ref: P/DC/RJW/11/10221
Date: 20 April 2011

**Hinckley & Bosworth
Borough Council**

A Borough to be proud of

Mr M. McConville
Development Control
Rugby Borough Council
Town Hall
Evreux Way
Rugby
Warwickshire
Cv21 2RR

Dear Mr McConville

Re – Proposed development at Land at Stretton Croft, Watling Street, Wolvey

I refer to your consultation letter to this authority dated 6 April 2010 regarding the above planning application reference R11/0239.

The proposed development is in an unsustainable location in the countryside outside any settlement boundary. The proposed development is therefore considered to be contrary to national planning guidance contained in Planning Policy Statement 7: 'Sustainable Development in Rural Locations' which guides local authorities to promote sustainable patterns of development and seeks to protect the countryside for its own sake from inappropriate development.

The proposed development is also likely to generate a large number of trips by private car given the somewhat remote location of the site in respect of residential areas and the lack of accessibility by public transport. Notwithstanding the submitted details, the proposed development is therefore considered to be contrary to national planning guidance contained in Planning Policy Guidance 13: 'Transport' which seeks to (i) reduce the physical separation of key land uses; (ii) promote more sustainable transport choices and accessibility to jobs, leisure facilities and services by public transport, walking and cycling and (iii) reduce the need to travel, especially by car.

The proposals involve the development of 'town centre' uses and B1(a) office uses in a location that is remote from facilities and services. The proposed development is therefore considered to be contrary to national planning guidance contained in Planning Policy Statement 4: 'Planning for Sustainable Economic Growth' which seeks to (i) deliver more sustainable patterns of development and reduce the need to travel, especially by car; (ii) promote the vitality and viability of town centres by focussing new economic growth and development of main town centre uses in existing centres and (iii) strictly control economic

development in open countryside away from existing settlements or outside areas allocated for development in development plans in order to protect the open countryside for the benefit of all. There are concerns that the proposed development could have an adverse impact on Hinckley town centre.

The proposed development is also appears to be contrary to a number of 'saved' policies contained in the Rugby Borough Local Plan which accord with national planning guidance.

Notwithstanding any merits of potential employment generation, due to the unsustainable location of the site, Hinckley and Bosworth Borough Council does not support the proposed development.

Yours sincerely

R. Wright
Area Planning Officer
On behalf of Hinckley and Bosworth Borough Council

PLANNING COMMITTEE – 13 December 2011

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

1. PURPOSE OF REPORT

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

2. RECOMMENDATION

That the report be noted.

3. BACKGROUND TO THE REPORT

Appeals Lodged

None

Appeals Determined

Appeal by Mr Frank Downes against the refusal of full planning permission (10/00980/FUL) for the erection of 5 dwellings at 9 Spa Lane, Hinckley

The Inspector considered there were two main issues to be considered, firstly, the impact on the living conditions of the future occupiers of the proposed dwellings and, secondly, the effect of the proposal on the character and appearance of the residential area. Importantly the Planning Inspector noted and referred to a previous planning approval on site for four dwellings (reference 11/00224/FUL) which was for one extra dwelling.

With regard to the provision of financial contributions towards open space, the Inspector noted that the appellant had submitted a completed Unilateral Undertaking under S106 of the Act, at the request of the Council. It fulfilled the test set out in CIL Reg. 122; the contribution was necessary, directly related and reasonably related in scale and kind to the proposed development. The Inspector concluded that the undertaking ensured there would be no adverse impact on the future living conditions of the proposed dwellings.

The houses on plots 1 and 5 of the proposal would be in very similar positions as those on plots 1 and 4 of the approved scheme for four dwellings. The remaining proposed houses on plots 2, 3 and 4 would however be tightly packed very close together with little green space and large areas of hard surfacing for vehicles giving a hard, urban appearance, dominated by building and land surfaces.

The Inspector considered that the closeness of the willow tree and the fir trees to the house and garden would produce a claustrophobic environment in the rear garden and there would be pressure from future owners of the property to lop or remove some of the surrounding trees, to the detriment of the appearance and character of the area.

The Inspector concluded that the development would adversely affect the character and appearance of the area. It would be contrary to the Council's design policies in the Local Plan.

In relation to the Council not having a current 5-year housing land supply, for the sake of one extra dwelling beyond those already granted permission the Inspector did not consider that this circumstance would outweigh the very serious visual harm that would be caused.

Inspector's Decision

Appeal dismissed (committee decision)

Appeal by Mr and Mrs J Hitchcock against the refusal the refusal of full planning permission (11/00228/FUL) for the erection of one dwelling, detached garage and formation of access on land between 3 and 15 Shenton Lane, Market Bosworth.

Two main issues were considered by the Inspector in this appeal. Firstly, the impact on the living conditions of future occupiers of the proposed dwelling arising from the provision of public open space; and secondly the effect of the proposal on highway safety and the free flow of traffic along Shenton Lane due to the proposed vehicular access and car parking.

With regard to the first issue, the Inspector referred to saved Local Plan policies REC3 and IMP1 which provided the standards set out for public open space and the provision of financial contributions towards it supported the adopted Supplementary Planning Document (SPD) on Play and Open Space. It was noted the proposal had triggered a requirement for an open space contribution of £1,250.80 to be in compliance with the contribution details that are set out in the adopted SPD.

The appellant had submitted a completed Unilateral Undertaking under S106 of the Act contributing the specified amount for the provision and maintenance of off-site public play and open space facilities which satisfied the Council's reason for refusal. The Planning Inspector concluded that the undertaking would ensure there would be no adverse impact on the future living conditions of the occupiers of the proposed dwelling.

The second issue related to highway safety. The Inspector noted that the proposed access would be onto Shenton Lane, a narrow road within a 30 mph limit. The Inspector then addressed the issue of visibility of the access coming out on to Shenton Lane.

It was noted the visibility from the access was less than 10 metres in each direction, which is contrary to technical advice given in the Manual for Street (MfS). The MfS indicates that within areas with a 30mph limit the visibility in each direction should be 43 metres, measured 2.4 metres back from the carriageway.

The Inspector pointed out that it might be possible to increase the visibility to the south west, it could not however be increased in the critical north east. The available visibility in this direction was so little that the Inspector considered vehicles emerging from the site would cause a danger to highway safety.

The Inspector was not convinced the proposal as designed could properly provide three parking spaces and a workable and effective turning area for a four-bedroomed dwelling such as this proposal.

The Inspector reiterated that the Highways Authority was also concerned about the parked vehicles obscuring the visibility splays. In the Inspector's view, there was no substantial or convincing evidence that the minor loss of any car parking spaces on the road as a result of this proposal would lead to an unacceptable parking situation in the town centre which in turn would lead to a danger to highway safety.

The Inspector concluded that the proposal would seriously harm highway safety and interfere with the free flow of traffic along Shenton Lane due to the inadequate visibility splay distances and the likelihood that some vehicles would reverse out of the driveway. It was considered to be contrary to saved Local Plan Policy T5. On the grounds that the scheme's failure to meet highway standards, the Inspector concluded that the appeal should be dismissed.

Inspector's Decision

Appeal dismissed (committee decision)

Appeal by Chartwell Care Limited against the refusal to issue a Certificate of Lawful Use (11/00279/CLU) for the use of a dwelling house as a children's care home at 15 Crownhill Road, Burbage

In this appeal, the issue for consideration was whether the Council's decision to refuse to grant a certificate was well-founded.

The appeal property was described by the Planning Inspector as a large modern detached dwelling house. It was proposed as a care home for children / young people with learning disabilities. Despite

evidence to suggest the dwelling house had previously been used as a children's care home, its lawful use had remained a dwelling house in Use Class C3 of the Use Classes Order.

The appellants contended that the proposed use could be argued to fall within part (b) of Class C3 and, even if the use were to fall within Use Class C2 (residential institutions), any change of use from Class C3, they argued would not be a material change of use and therefore would not amount to development.

Firstly, the Inspector made an assessment on which Use Class the use should fall into (either C2 or C3). Children need to be looked after and could not on their own be regarded in the true sense as a household without the presence of a carer. Given the carers were not resident they could not be regarded as living together in a household.

From a technical perspective the Inspector stated that the concept of living together as a household means, in the context of Class C3 (b), that a proper functioning household must exist'. The Inspector considered this not to be the case, and for this reason, the proposed use was considered to fall into Class C2 and a change of use from Class C3 had taken place.

The Inspector then assessed whether the change of use from C3 to C2 would result in a *material* change of use. The appellants explained that the model of care provided sought to replicate typical family life in an ordinary local community. The changeover of care workers and vehicle movements/potential travel arrangements were then noted.

In refusing to issue a certificate, staff numbers were cited by the Council as the sole cause for concern. However, the Inspector disagreed on the basis that the numbers involved were not materially different from what might be expected of a large family house and the typical comings and goings of a family with teenagers or young adults.

The Inspector acknowledged the Council's stance that potential existed for greater staff numbers to be at the property to deal with particular difficulties. However, this was regarded as an exception and not part of the typical day-to-day operation of the home. The Inspector then dismissed the arguments put forward by neighbouring residents who were of the view that a material change of use would occur.

The Inspector found that the proposed use would not, as a use within Class C2, amount to a material change of use from a Class C3 use as a dwelling house. On this basis, the change of use would not amount to development for which planning permission would be required.

The Inspector concluded that, on the available evidence, the Council's refusal to grant a Lawful Development Certificate in respect of the use

of a dwellinghouse as a children`s home was not well-founded and that the appeal should succeed

The Inspector granted a certificate in the terms attached to the report. It certifies that the change of use from Use Class C3 dwellinghouse to Use Class C2 residential institution is considered a lawful use and shows the terms under which the certificate was granted - please see the attached certificate at the end of this report.

Cost decision for an award of costs

The appellant also made an application for costs. In considering that application, the Inspector formed the following conclusions;

- the objections appeared to relate to the planning merits of the use and not to its lawfulness or otherwise;
- members had the objections on planning merits uppermost in their mind;
- no reason was given for coming to the view that the proposed use would be a material change of use by reason of the numbers of staff

The Inspector, whilst acknowledging that clear advice was given to Members and the Council had mounted a cogent defence of the decision, found that the Council had behaved unreasonably in refusing the certificate and reasonable planning grounds had not been shown for a decision taken contrary to officers` clear and repeated advice.

He said that if the committee had exercised its powers in line with legislative provisions and officers` advice relating to LDC applications, it would have limited its considerations to questions of lawfulness.

The Inspector therefore made a full award of costs against the Council the amount of which is now being negotiated with the appellant.

Inspectors Decision

Appeal allowed (committee decision)



Lawful Development Certificate

TOWN AND COUNTRY PLANNING ACT 1990: SECTION 192
(as amended by Section 10 of the Planning and Compensation Act 1991)

TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND)
ORDER 2010: ARTICLE 35

IT IS HEREBY CERTIFIED that on 24 March 2011 the use described in the First Schedule hereto in respect of the land specified in the Second Schedule hereto and edged in black on the plan attached to this certificate, would have been lawful within the meaning of section 192 of the Town and Country Planning Act 1990 (as amended), for the following reason:

Although a change of use from a use in Use Class C3 dwellinghouse to Use Class C2 residential institutions would occur, it does not amount to a material change of use and no development requiring planning permission would therefore take place.

Signed

C M Hoult

INSPECTOR

Date 7 November 2011

Reference: APP/K2420/X/11/2155849

First Schedule

The use of a dwellinghouse as a children's care home pursuant to the Children's Act 2000 for children who fall within the Ofsted registration for children with learning disabilities, in which:

- (1) no more than three children are receiving care at any one time;
- (2) the children in care are aged from 9 to 17 years' old with an age range of no more than three years at any one time;
- (3) the home at no time provides care for children with emotional and/or behavioural difficulties;
- (4) there are no more than (a) two staff on duty between 07.00 and 08.00 to prepare the children for school or between 14.30 and 22.30, unless

exceptionally a further member of staff is required to meet individual needs (b) no more than three staff on duty at weekends and during school holidays, and (c) normally no more than one waking staff at night to provide support to the children with a further member of staff sleeping in who would be available should further assistance be required;

- (5) no parental visits to children normally take place;
- (6) no room is used as an office and no business meetings of any kind take place;
- (7) no more than three vehicles are parked at or around the home at any one time;
- (8) no activity in relation to staff vehicle movements takes place before 07.30 or after 22.00.

Second Schedule

Land at 15 Crownhill Road, Burbage, Hinckley, Leicestershire, LE10 2LD

NOTES

This certificate is issued solely for the purpose of Section 192 of the Town and Country Planning Act 1990 (as amended).

It certifies that the use described in the First Schedule taking place on the land specified in the Second Schedule would have been lawful on the certified date and, thus, was not liable to enforcement action, under section 172 of the 1990 Act, on that date.

This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described, or which relates to any other land, may result in a breach of planning control which is liable to enforcement action by the local planning authority.

The effect of the certificate is subject to the provisions in section 192(4) of the 1990 Act, as amended, which state that the lawfulness of a specified use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters which were relevant to the decision about lawfulness.

4. FINANCIAL IMPLICATIONS [CB]

There are sufficient funds within existing planning budgets to cover the award of costs against the Council for the Chartwell Care Ltd. appeal.

5. LEGAL IMPLICATIONS [MR]

Set out in the report

6. CORPORATE PLAN IMPLICATIONS

This document contributes to Strategic Aim 3 of the Corporate Plan

- Safer and Healthier Borough.

7. CONSULTATION

None

8. RISK IMPLICATIONS

None

9. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

None

10. CORPORATE IMPLICATIONS

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

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

Background papers: Appeal Decisions

Contact Officer: Kevin Roeton Planning Officer ext. 5919

PLANNING APPEAL PROGRESS REPORT

SITUATION AS AT: 02.12.11

WR - WRITTEN REPRESENTATIONS

IH - INFORMAL HEARING

PI - PUBLIC INQUIRY

FILE REF	CASE OFFICER	APPLICATION NO	TYPE	APPELLANT	DEVELOPMENT	SITUATION	DATES
	KR	11/00630/LBC	WR	Mr David Newman	Church Farm The Green Orton on the Hill 8	Awaiting Start Date	
	KR	11/00606/FUL	WR	Mr David Newman	Church Farm The Green Orton on the Hill 8	Awaiting Start Date	
11/00022/ENF	JB	08/00483/UNAUTH	PI	Gary Smith	2 Hawthorn Rise, Groby	Start Date Proof of Evidence Public Inquiry (1 day)	21.10.11 TBA TBA
11/00023/PP	?	11/00435/EXT	WR	Sycamore Developments	3 Cleveland Road Hinckley	Start Date Statement of Case Final Comments	26.10.11 07.12.11 28.12.11
11/00020/PP	ES	11/00377/FUL	IH	C Price	Land Adj Hissar House Farm, Leicester Road, Hinckley	Start Date Hearing Date	11.10.11 17.01.11
11/00018/COND	RW	10/00851/EXT	PI	SWIP Ltd	Nailstone Colliery, Wood Road, Nailstone	Start Date Rule 6 Proof of Evidence Public Inquiry (2 days)	23.09.11 15.12.11 28.12.11 1/2.02.12
11/00019/PP	ES	11/00471/FUL	WR	Jaynes Barnes	6 Boyslade Road East, Burbage	Start Date Awaiting Decision	28.09.11
11/00014/ENF	LR	10/00176/UNAUTH	WR	Mr K McEwan	30-32 High Street Earl Shilton	Start Date Awaiting Decision	13.07.11
09/00017/ENF	JC/ES	07/00031/BOC	PI	Mr P Godden	Land at Upper Grange Farm Ratby Lane Markfield	Start Date Statement of Case Public Inquiry (4 days) Temporarily Suspended	06.11.09 On hold pending JR

Decisions Received

11/00013/CLD	NC	11/00279/CLU	WR	Mr David Durrant	15 Crownhill Road Burbage	ALLOWED	07.11.11
11/00015/PP	SJ	11/00228/FUL	WR	Mr & Mrs J Hitchcock	Rear of 8 Sutton Lane Market Bosworth	DISMISSED	15.11.11
11/00017/PP	EM	10/00980/FUL	WR	Mr F Downes	9 Spa Lane, Hinckley	DISMISSED	16.11.11

Rolling 1 April - 2 December 2011

Planning

No of Appeal Decisions	Officer Decision				Councillor Decision					
	Allowed	Dismissed	Split	Withdrawn	Allow	Spt	Dis	Allow	Spt	Dis
14	3	8	0	3	2	0	8	1	0	0

Enforcement

No of Appeal Decisions	Allowed	Dismissed	Split	Withdrawn

Delegated Applications determined between 01/11/2011 and 30/11/2011

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
Ambion	11/00454/FUL	PLANNING PERMISSION	16/11/2011	Ms Gayner Johnson	New House Farm Stapleton Lane Dadlington Nuneaton Leicestershire CV13 6HZ
					DEMOLITION OF EXISTING DWELLING AND THE ERECTION OF ONE NEW DWELLING.
	11/00751/CON	REFUSAL OF PLANNING PERMISSION	28/11/2011	Mr Richard Barton	23 Cherry Orchard Higham On The Hill Nuneaton Leicestershire CV13 6AF
					VARIATION OF CONDITION 4 OF APPEAL DECISION FOR PLANNING APPLICATION NO 09/00703/FUL TO ALLOW AN OPEN ABLE WINDOW WITHIN THE SOUTH ELEVATION TO SERVE BEDROOM NO.2
	11/00770/FUL	PLANNING PERMISSION	25/11/2011	Ms Rachel Tidmarsh	Hill View Bosworth Road Wellsborough Nuneaton Leicestershire CV13 6PA
					EXTENSIONS AND ALTERATIONS TO DWELLING.
	11/00773/CLU	CERTIFICATE OF LAWFUL PROPOSED USE	29/11/2011	Mr Brendon Burke	2 Bosworth Road Wellsborough Nuneaton Leicestershire CV13 6PA
					CERTIFICATE OF LAWFUL PROPOSED DEVELOPMENT FOR EXTENSIONS AND ALTERATIONS TO DWELLING
	11/00804/FUL	PLANNING PERMISSION	29/11/2011	Mr And Mrs Oliver	Vine House Farm Shenton Lane Upton Nuneaton Leicestershire CV13 6LA
					REBUILDING OF OUTBUILDING TO PROVIDE GARAGE AND STORE
Barlestone Nailstone And Osbasto					
	11/00781/FUL	PLANNING PERMISSION	29/11/2011	Mr & Mrs Harvey	9 Main Street Barlestone Nuneaton Leicestershire CV13 0ED
					EXTENSIONS AND ALTERATIONS TO DWELLING AND OUTBUILDING

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
Burbage Sketchley & Stretton	11/00727/COU	PLANNING PERMISSION	03/11/2011	Steven Adnam	83 Lutterworth Road Burbage Hinckley Leicestershire LE10 2DJ
	11/00729/CON	PLANNING PERMISSION	21/11/2011	Mr John Knapp	5 Sketchley Hall Gardens Burbage Hinckley Leicestershire LE10 3JP
	11/00738/FUL	PLANNING PERMISSION	15/11/2011	Mr Bryan Greenway	7 Coventry Road Burbage Hinckley Leicestershire LE10 2HL
	11/00747/FUL	PLANNING PERMISSION	10/11/2011	Mr John Foster	Sketchley Horizon School Sketchley Manor Hall Manor Way Burbage Hinckley Leicestershire LE10 2NN
	11/00753/FUL	PLANNING PERMISSION	29/11/2011	Mr & Mrs B Lear	14 Troon Way Burbage Hinckley Leicestershire LE10 2GX
	11/00758/TPO	Refusal of Tree Preservation Order Works	14/11/2011	Mrs Bridget Hughes	150 Wolvey Road Burbage Hinckley Leicestershire LE10 2JJ
Burbage St Catherine's & Lash Hill	11/00880/FUL	Application Returned	14/11/2011	Mr & Mrs Adrian Watts	20 School Close Burbage Hinckley Leicestershire LE10 2FE

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
Cadeby CarltonM Bosworth & Sha	11/00299/LBC	LISTED BUILDING CONSENT	21/11/2011	Mr Pegg	The Old House Wood Lane Cadeby Nuneaton Leicestershire CV13 0AU
	11/00750/EXT	PLANNING PERMISSION	21/11/2011	Mr Frank Brogan	Sycamore Farm 29 Main Street Barton In The Beans Nuneaton Leicestershire CV13 0DJ
	11/00762/FUL	PLANNING PERMISSION	29/11/2011		83A Main Street Carlton Nuneaton Leicestershire CV13 0BZ
	11/00766/FUL	PLANNING PERMISSION	29/11/2011	Mr John Bayley	Castle Farm Gopsall Road Bilstone Nuneaton Leicestershire CV13 6NQ
	11/00767/CON	PLANNING PERMISSION	10/11/2011	Mr Andrew Mitchell	Fernlea House Barton Road Carlton Nuneaton Leicestershire CV13 0DB
	11/00769/FUL	PLANNING PERMISSION	21/11/2011	Mr Pegg	The Old House Wood Lane Cadeby Nuneaton Leicestershire CV13 0AU
Earl Shilton	11/00784/FUL	PLANNING PERMISSION	29/11/2011	Mr And Miss Mason	35 Elmeshorpe Lane Earl Shilton Leicester Leicestershire LE9 7PT
					EXTENSIONS AND ALTERATIONS TO DWELLING.

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
Groby	11/00604/TPO	Permit Tree Preservation Order Works	03/11/2011	Mr Peter Hammond	7 Spinney Close Groby Leicester Leicestershire LE6 0BY
	11/00610/FUL	PLANNING PERMISSION	16/11/2011	Mr Marelli Baker	15 Castell Drive Groby Leicester Leicestershire LE6 0DE
	11/00741/FUL	PLANNING PERMISSION	16/11/2011	Mr M Crothers	8 Parkside Groby Leicester Leicestershire LE6 0EB
					EXTENSIONS AND ALTERATIONS TO DWELLING
Hinckley Castle	11/00612/COU	PLANNING PERMISSION	10/11/2011	Mr Jeremy Smith	126 Castle Street Hinckley Leicestershire LE10 1DD
	11/00728/FUL	PLANNING PERMISSION	02/11/2011	Mr Ashley Hunt	62 Castle Street Hinckley Leicestershire LE10 1DD
	11/00749/EXT	PLANNING PERMISSION	09/11/2011	Mrs Anne Knight	Land At Springfield Road Hinckley Leicestershire
	11/00811/FUL	PLANNING PERMISSION	29/11/2011	Mrs A Doods	6 Shakespeare Drive Hinckley Leicestershire LE10 0BG
					EXTENSIONS AND ALTERATIONS TO DWELLING

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
Hinckley Clarendon	11/00647/FUL	PLANNING PERMISSION	21/11/2011	Miss C Dewis	2 And 4 John Nichols Street Hinckley Leicestershire LE10 0LD
					EXTENSION AND ALTERATIONS TO DWELLINGS
	11/00763/FUL	PLANNING PERMISSION	25/11/2011	Mrs Rachel Taylor	315 Coventry Road Hinckley Leicestershire LE10 0NE
					EXTENSIONS AND ALTERATIONS TO DWELLING
Hinckley DeMontfort	11/00742/FUL	PLANNING PERMISSION	23/11/2011	Mr & Mrs T Jukes	57 Leicester Road Hinckley Leicestershire LE10 1LW
					ALTERATIONS TO DWELLING
	11/00774/FUL	PLANNING PERMISSION	18/11/2011	Ms S Bennett	35 York Road Hinckley Leicestershire LE10 0RH
					EXTENSIONS AND ALTERATIONS TO DWELLING
	11/00786/TPO	Permit Tree Preservation Order Works	22/11/2011	Mrs Shelagh Moore	Land At Corner Of Middlefield Court Middlefield Court Hinckley Leicestershire LE10 0QT
					WORKS TO HORSE CHESTNUT TREE (MARKED T1 ON TPO)
Hinckley Trinity	11/00600/FUL	PLANNING PERMISSION	10/11/2011	Mr R Sheppard	Wykin Hall Farm Wykin Road Wykin Hinckley Leicestershire LE10 3EF
					ERECTION OF AN AGRICULTURAL STORAGE BUILDING

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
Markfield Stanton & Fieldhead	11/00754/FUL	PLANNING PERMISSION	24/11/2011	Mr Anil Dhir	32 Shaw Lane Markfield Leicestershire LE67 9PU
				EXTENSIONS AND ALTERATIONS	

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
Newbold Verdon With Desford & P	11/00649/FUL	PLANNING PERMISSION	03/11/2011	Mrs Eunice Ward	Asfield Farm Kirkby Road Desford Leicester Leicestershire LE9 9JX
	11/00705/CON	PLANNING PERMISSION	03/11/2011	Mr D E Stone	5 Kirkby Lane Newbold Verdon Leicester Leicestershire LE9 9LN
	11/00711/FUL	PLANNING PERMISSION	08/11/2011	Mr D Taylor	L M D Associates Link Marketing Display Ltd Leicester Road Peckleton Leicester Leicestershire LE9 7TJ
	11/00730/CLU	REFUSAL OF CERT OF LAWFUL PROPOSED USE	02/11/2011	Mr Stephen Goodman	Craigmore Farm Merrylees Road Newbold Heath Newbold Verdon Leicestershire
	11/00732/CLU	REFUSAL OF CERT OF LAWFUL PROPOSED USE	02/11/2011	Mr Graham Hubbard	14 Goulton Crescent Desford Leicester Leicestershire LE9 9DR
	11/00746/FUL	PLANNING PERMISSION	22/11/2011	Mr G Wykes	7 Ashby Road Stapleton Leicester Leicestershire LE9 8JF
	11/00796/FUL	PLANNING PERMISSION	28/11/2011	Mrs S Birchall	10 Salisbury Close Desford Leicester Leicestershire LE9 9HJ

<i>Ward</i>	<i>Reference</i>	<i>Decision</i>	<i>Date of Decision</i>	<i>Applicants Name</i>	<i>Address</i>
Twycross Sheepy & Witherley					
	11/00658/FUL	PLANNING PERMISSION	08/11/2011	Mr Ronald Hicks	Thornfield Bungalow Atterton Road Atterton Nuneaton Leicestershire CV13 6JU
				EXTENSIONS AND ALTERATIONS TO DWELLING.	
	11/00724/FUL	PLANNING PERMISSION	09/11/2011	Mrs Suzanne Boardman	Twycross Zoological Park Burton Road Norton Juxta Twycross Atherstone Leicestershire CV9 3PX
				DEMOLITION OF CHIMPANZEE EXHIBIT AND AVIARY AND ERECTION OF APE ENCLOSURE	
	11/00745/FUL	PLANNING PERMISSION	08/11/2011	Mr Peter Helyer	10 Kennel Lane Witherley Atherstone Leicestershire CV9 3LJ
				EXTENSION AND ALTERATIONS TO DWELLING	
	11/00807/GDO	GENERAL DEVELOPMENT ORDER	17/11/2011	Mr Brian Greenfield	Harris Bridge Farm Burton Road Sibson Nuneaton Leicestershire CV13 6LS
				EXCAVATION OF GENERAL PURPOSE AGRICULTURAL LAGOON	