

PLANNING COMMITTEE 3 April 2012
LIST OF LATE ITEMS RECEIVED AFTER PREPARATION OF MAIN AGENDA:

Policy update in light of the National Planning Policy Framework (NPPF)

The NPPF reiterates the statutory requirement that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.

It also states that the document should be read in conjunction with the newly released policy statement on Gypsies and Travellers.

The purpose of the planning system is to contribute to the achievement of sustainable development. There are 3 dimensions to sustainable development:

- An economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places to support growth and innovation
- A social role – supporting strong, vibrant and healthy communities by providing the supply of housing required to meet the needs of present and future generations, and by creating a high quality built development with accessible local services;
- An environmental role – contributing to protecting and enhancing our natural, built and historic environment.

At the heart of the NPPF is a **presumption in favour of sustainable development**, which should be seen as a golden thread running through both plan-making and decision making. For decision making this means:

- Approving development proposals that accord with the development plan without delay; and
- Where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted. (Para 14).

Local planning authorities should approach decision-taking in a positive way to foster the delivery of sustainable development. The relationship between decision making and plan-making should be seamless, translating plans into high quality development on the ground. (Para 186). They should seek for solutions rather than problems and decision-takers at every level should seek to approve applications for sustainable development where possible.

Early engagement in pre-application discussions is encouraged where it is offered. Developers should be encouraged to engage with the community.

The planning system is plan-led. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions. (Para 196)

In assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development (Para 197).

Implementation

The policies in the NPPF apply from the day of publication (27th March 2012).

For 12 months from the day of publication, decision makers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework.

The Hinckley and Bosworth Local Plan was adopted in February 2001, as such it is necessary to review all saved local plan policies according to their consistency with the framework. Due weight must then be

given according to their consistency with the NPPF. These are appraised within each application late item.

For clarity it should be noted that the following national policy guidance documents referred to in the main agenda are superseded by the NPPF:

Circular 05/05
Circular 01/06
NPPF (Draft)
All Planning Policy Guidance and Statements

ITEM 01

11/01023/REM

Mr John Deakin

Introduction:-

A schedule of materials has been submitted for determination.

Consultations:-

Director of Environment and Transport (Highways) raises no objection subject to conditions.

Three additional representations have been received objecting on the additional following comments:-

- a) the development would breach Human Rights
- b) inconsiderate layout design
- c) works should not be started until the right hand turning lane is completed
- d) concerns regarding the treatment of the effluent and capacity of the existing infrastructure to cope with the demand.

Development Plan Policies:-

Delete reference to PPS1, PPS3, PPS5, PPS9, PPG13, PPS23 and PPS25 as these have been replaced by the NPPF.

The National Planning Policy Framework March 2012.

Appraisal:-

A requirement of the NPPF is to assess all pre 2004 development plan policies for consistency with the NPPF and give weight accordingly. In this case this means assessing the Saved Policies of the Adopted Hinckley and Bosworth Local Plan against the requirements of the NPPF. The following is an appraisal of the effect of the NPPF on the proposed development:-

Policy BE1 - Design and Siting of Development. Criteria a - i of this policy are consistent with the NPPF and as such the policy should be given weight in consideration for this application.

Policy REC2 - 'New Residential Development - Outdoor Open Space Provision for Formal Recreation' is in conformity with the intentions of the NPPF. Therefore the NPPF will have no impacts on the application in this respect.

Policy REC3 - 'New Residential Development - Outdoor Play Space for Children' is in conformity with the intentions of the NPPF. Therefore the NPPF will have no impacts on the application in this respect.

Policy RES5 - 'Residential Proposals on Unallocated Sites' has limited weight in respect of its consideration against the NPPF. The NPPF encourages the use of Brownfield land and developments of high quality design, whereas the local plan encourages sites within settlement boundaries and suggests that in terms of design, proposals should be compliant with policy BE1 of the Local Plan. Accordingly, policy RES5 has limited weight in this instance.

Policy T5 - 'Highway Design and Vehicle Parking Standards' is considered consistent with the NPPF and as such the policy remains a relevant consideration for this application.

Policy T9 - 'Facilities for Cyclists and Pedestrians' is considered consistent with the NPPF and as such the policy remains a relevant consideration for this application.

Policy NE2 - 'Pollution' is considered consistent with the NPPF and as such the policy remains a relevant consideration for this application.

Policy NE5 - 'Development in the Countryside'. Criteria a-c of this policy are in conflict with the NPPF which provides a presumption in favour of sustainable development, however, notwithstanding this, the design criteria i-iv remain generally relevant to development within the countryside and are similar to the requirements of Saved Policy BE1. As a result this policy should be given only limited weight in consideration of the application.

Policy IMP1 - 'Contributions Towards the Provision of Infrastructure and Facilities' this policy is consistent with the intentions of the NPPF.

An objection has been received on the basis that the Human Rights of a neighbour would be violated if this proposal were to go ahead. Article 1 of protocol 1, Article 6 and Article 8 of the European Convention on Human Rights state that everyone has the right to peaceful enjoyment of their possessions and a proportional approach should be taken weighing up the perceived harm of a scheme against the merits of the scheme. The main report has addressed the impact of the proposal on the amenities and security of existing neighbouring dwellings, with regard being had to the appeal decision that examined and determined that the need for the development outweighed the harm to the environment in this instance.

Director of Environment and Transport (Highways) has raised no objection subject to conditions being imposed. A number of the recommended conditions are already imposed on the outline planning permission (wheel cleansing, access design and visibility splays) therefore those conditions have not been recommended for imposition. A number of other recommended conditions relating to matters covered as part of the Section 38 process do not comply with the tests of Circular 11/95 and therefore should not be imposed. The conditions considered in compliance with the tests of Circular 11/95 are recommended below.

Representations have been received stating that works should not commence until the right hand turning lane has been installed. The condition requiring the right hand turning lane, requires its implementation prior to the occupation of the first dwelling and this was imposed at the time of the appeal by the Inspector. The access is not being considered as part of this application.

The drainage issues are considered in the main report.

Additional information was requested in respect of the materials submission. Further assessment of the materials is required prior to confirmation of acceptability on this basis it is suggested that an amendment to Condition No. 2 be delegated to the Head of Planning.

Recommendation:-

Permit subject to conditions and pursuant to the submission of materials the Head of Planning be authorised to determine whether the details submitted are acceptable and subject to that amend condition 2 accordingly and issue the decision notice.

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, 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 scale, design and layout, provision and location of affordable housing, and landscaping, the proposed residential scheme is considered to retain existing strong landscaping features of the area and respect the topography of the site whilst preserving the amenities of neighbouring residents. The proposal is therefore considered acceptable.

Hinckley and Bosworth Borough Council Local Development Framework: Core Strategy (2009): Policies 1, 6, 15, 16, and 24.

Hinckley & Bosworth Borough Council Local Plan (2001):- Policies BE1 (criteria a-i), REC2, REC3, RES5, T5, T9, NE2, NE5, and IMP1.

Condition 1 amended as follows:-

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

Received 10 January 2012

S5727/500/01(Location Plan), S776/02, /03, /04, /05 (topographical surveys).

Received 13 March 2012

PC0275 – PLT93-2A (PLOT93); PC0275-PLT-2 (PLOT94); PC0275-PLT95 (PLOT95); PC0275-PLT96 (PLOT 96); PC0275-PLT98-2A (PLOT98); PC0275-PLT99-1 & PC0275-PLT99-2 (PLOT99); PC0275-PLT103-1A (PLOT103); PC0275-PLT104 (PLOT104); PC0275-PLT106 (PLOT106); PC0275-PLT107-2 (PLOT107); PC0275-PLT108 (PLOT108); PC0275-PLT109 (PLOT109); PC0275-PLT101/1 & PC0275-PLT 10/2 (PLOT110); PC0275-PLT111/1 & PC0275-PLT111/2 (PLOT111); PC0275-PLT112/2 (PLOT 112); PC0275-PLT113 (PLOT113); PC0275-PLT114/1 & PC0275-PLT114/2 (PLOT114); PC0275-PLT115/1B & PC0275-PLT115/2 (PLOT115); PC0275-PLT116/2 (PLOT116); PC0275-PLT117/1 & PC0275-PLT117/2 (PLOT117); PC0275-PLT118/1 & PC0275-PLT118/2 (PLOT118); PC0275-PLT119/1 & PC0275-PLT119/2 (PLOT119); PC0275-PLT120/2 (PLOT120); PC0275-PLT121 (PLOT121); PC0275-PLT122 (PLOT 122); PC0275-PLT129 (PLOT129); PC0275-PLT130 (PLOT130); PC0275-PLT131 (PLOT131); PC0275-PLT132 (PLOT132); PC0275-PLT133 (PLOT133); PC025-PLT134 (PLOT134); PC0275-PLT135 (PLOT135); PC0275-PLT136 (PLOT136); PC0275-PLT137 (PLOT137); PC0275-PLT138 (PLOT138); PC0275-PLT139 (PLOT139); PC0275-OPLT142/2 (PLOT142); PC0275-PLT143/1 & PC0275-PLT143/2 (PLOT143); PC0275-PLT147/1 & PC0275-PLT147/2 (PLOT147); PC0275-PLT148/2 (PLOT148); PC0275-PLT149/2 (PLOT149); PC0275-PLT150/1 & PC0275-PLT150/2 (PLOT150); PC0275-PLT152 (PLOT152); PC0275-PLT153/1 & PC0275-PLT153/2 (PLOT153); PC0275-PLT155/1 & PC0275-PLT155/2 (PLOT155); PC0275-PLT156/2 (PLOT156); PC0275-PLT157 (PLOT157); PC275-PLT159 (PLOT159); PC0275-PLT162 (PLOT162); PC0275-PLT165 (PLOT165); PC0275-PLT166 (PLOT166); PC0275-PLT167 (PLOT167); PC0275-PLT168 (PLOT168); PC0275-PLT169 (PLOT169); PC0275-PLT170 (Plot 170); PC0275-PLT171 (PLOT171); PC0275-PLT172 (PLOT172); PC0275-PLT173 (PLOT173); PC0275-PLT174 (PLOT174); PC0275-PLT175-176 (PLOT175/176); PC0275-PLT177-178 (PLOT177/178); PC0275-PLT179-180 (PLOT179/180); PC0275-PLT181 (PLOT181); PC0275-PLT182 (PLOT182); PC0275-PLT183 (PLOT183); PC0275-300-27 (GARAGES) Pc0275-300-28 (GARAGES).

Received 16 March 2012

PC0275-PLT93-1B (PLOT93); PC0275-PLT94-1A (PLOT94); PC0275-PLT98-1B & PC0275-PLT98-2A (PLOT98); PC0275-PLT98-1B (PLOT98); PC0275-PLT100-A (PLOT100); PC0275-PLT101-A (PLOT101); PC0275-PLT102-1A (PLOT102); PC0275-PLT105-A (PLOT105); PC0275-PLT107-1A (PLOT107); PC0275-PLT112/1A (PLOT112); PC0275-PLT116/1A (PLOT116); PC0275-PLT120/1A (PLOT120); PC0275-PLT123-A (PLOT 123); PC0275-PLT124-A (PLOT124); PC0275-PLT125-A (PLOT125); PC0275-PLT126-A (PLOT126); PC0275-PLT127-A (PLOT127); PC0275-PLT128-A (PLOT128); PC0275-PLT14-A (PLOT140); PC0275-PLT141-A (PLOT141); PC0275-PLT142/1A (PLOT142); C0275-PLT144-A (PLOT144); PC0275-PLT145-A (PLOT145); PC0275-PLT146-A (PLOT146); PC0275-PLT148/1A (PLOT148); PC0275-PLT149/1A (PLOT149); PC0275-PLT151-A (PLOT151); PC0275-PLT154-A (PLOT154); PC0275-PLT156/1A (PLOT156); PC0275-PLT158-A (PLOT158); PC0275-PLT160-A (PLOT160); PC0275-PLT161-A (PLOT161); PC0275-PLT163-A (PLOT163); PC0275-PLT164-A (PLOT164); PC0275-PLT184-A (PLOT184); PC0275/100/02 Rev A (Streetscenes Bellway).

Received 20 March 2012

Bir.3836_01F (Landscaping plan).

Received 21 March 2012

H533.02 & H533.01 (PLOT 1);H500.02 & H500.01 (PLOT2);H469.02 & H469.01 (PLOT3);H408.01 & H408.02 (PLOT4);H455.03 & H455.04 (PLOT5);H436.02 & H435.01 (PLOT6);H455.01 & H455.02 (PLOT7);H436.02 & H436.01 (PLOT8); H469.02 & H469.01 (PLOT9); H454.01 & H454.02 (PLOT10);H454.01 & H454.02 (PLOT11);H597.03 & H597.04 (PLOT 12);H536.02 & H536.01 (PLOT13);H436.02 & H436.01 (PLOT14); H536.04 & H536.03 (PLOT15); H408.01 & H408.02 (PLOT 16); H454.03 & H454.04 (PLOT17); P341.05 & P341.06 (PLOT18); T307.06 & T307.05 (PLOT19); T307.04 & T307.03 (PLOT20); P341.05 & P341.06 (PLOT21); T307.06 & T307.05 (PLOT22); T307.04 & T307.03 (PLOT23); T325.04 & T325.03 (PLOT24); T447.04 & T447.03 (PLOT25); T447.02 & T447.01 (PLOT26); T234.02 & T234.01(PLOT27); T447.04 & T447.03 (PLOT28); T447.04 & T447.03 (PLOT29); P332.R.03 & P332.L.04 (PLOT30); H469.04 & H469.03 (PLOT 31); H597.01& H597.02 (PLOT32); H455.01 & H455.02 (PLOT33); P231.14 & P231.13 (PLOT34); H436.02 & H436.01 (PLOT35); H404.04 & H404.03 (PLOT 36); H436.04 & H436.03 (PLOT 37); P206.01 & P206.02 (PLOT38); P206.03 & P206.04(PLOT 39); P206.01 & P206.02 (PLOT40); P232/P233.01 & P232/P233.02 (PLOT41/42); P341.04 & P341.03 (PLOT45); H404.02 & H404.01 (PLOT46); H436.02 & H436.01 (PLOT 47); H533.02 & H533.01 (PLOT48); H533.02 & H533.01 (PLOT49); P332.R.01 & P332.L.02 (PLOT50); H421.03 & H421.04 (PLOT51); H597.03 & H597.04 (PLOT52); H436.02 & H436.01(PLOT53); H500.02 & H500.01 (PLOT54); H469.02 & H469.01 (PLOT55); H500.02 & H500.01 (PLOT56); H469.02 & H469.01 (PLOT57); H455.01 & H455.02 (PLOT58); H455.03 & H455.04(PLOT 59); H469.04 & H469.03 (PLOT60); H469.04 & H469.03 (PLOT61); H433.03 & H433.04 (PLOT62); SH41.04 & SH41.03 (PLOT63); P206.BI.03 & P206.BI.03 (PLOT64); P206.BI.04 & P206.BI.03 (PLOT65); S130/S330.04 & S130/S330.03 (PLOT66/67); P206.BI.02 & P206.BI.01 (PLOT68); P206.BI.02 & P206.BI.01 (PLOT69); P383.06 & P383.05 (PLOT70); P232/P233.01 (PLOT71/72); P206.02 & P206.01 (PLOT73); T307.04 & T307.03 (PLOT74); T307.06 & T307.05 (PLOT75); P341.05 & P341.06 (PLOT76); H455.01 & H455.02 (PLOT77); H408.03 & H408.04 (PLOT78); H436.02 & H436.01 (PLOT79); T307.04 & T307.03 (PLOT80); T307.06 & T307.05 (PLOT81); T307.02 & T307.01 (PLOT82); H455.03 & H455.04 (PLOT83); H436.04 & H436.03 (PLOT84); H469.02 & H469.01 (PLOT85); H455.01 & H455.02 (PLOT86); H404.04 & H404.03 (PLOT87); H411.02 & H411.01 (PLOT88); H455.03 & H455.02 (PLOT89); H536.04 & H536.03 (PLOT90); H533.02 & H533.01 (PLOT91); H536.02 & H536.01 (PLOT92); S5727/500/03 Rev A (Streetscenes - DW); S5727/100/01 Rev A (Planning layout); S5727/500/05 Rev A (Chimney Deposition Plan-DW).

Received 30 March 2012

Landscape Management and Implementation Plan (Bir.3836).

Condition 3 amended as follows:-:

The landscaping scheme as shown on plan ref: Bir.3836_01F shall be implemented in accordance with the submitted Landscape Management and Implementation Plan ref: Bir.3836 and shall be fully implemented no later than the end of the first planting season following the occupation of the last dwelling.

Additional Conditions:-

- 7 Any doors erected to the proposed car port shall be set back from the highway boundary a minimum distance of 5m for sliding or roller shutter doors, 5.6 metres for up-and-over doors or 6 metres for doors opening outwards and thereafter shall be so maintained.

Reason: To enable a vehicle to stand clear of the highway in accordance with Policy T5 of the adopted Local Plan.

- 8 The gradient(s) of the access drive(s) shall not exceed 1:12 for the first 5 metres behind the highway boundary.

Reason: To enable vehicles to enter and leave the highway in a slow and controlled manner in accordance with Policy T5 of the adopted Local Plan.

- 9 Before first occupation of any dwelling, 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.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.)

ITEM 02

12/00067/FUL

Mr Jeffrey Penman

Introduction:-

The applicant has provided additional information to clarify the following points:-

- a) The report mentions shallow pitched roofs however both buildings have curved roof designs;
- b) In respect of density, the previously approved scheme, it was Unit C that has now been replaced by units 2-5;
- c) Unit F has largely been replaced by Unit 1 Marina Court (already approved and constructed) although some of Unit F's original approved footprint area (134 sq m) is now incorporated within the proposed Unit 2;
- d) In comparison, the ground floor footprint area proposed in the current application is 1336 square metres whereas the previously approved scheme approved 673 square metres (539+134);
- e) It is important to note that the proposed scheme is all ground floor accommodation, except Unit 6, whereas the approved scheme would have doubled in overall floor area when accounting for the first floors.

Consultations:-

British Waterways notes the revised planting details along the canalside boundary and confirm that they appear to be broadly appropriate and should serve to reinforce the existing hedge as a screen to minimise the visual impact of the development upon users of the canal and towpath. British Waterways also states that the inclusion of a bund separating the car park from the canal towpath, should ensure that vehicles cannot access the canal towpath from the car park.

One additional letter has been received stating that there has already been considerable thinning of the canal side hedge and the attraction of the canal to visitors and tourists has been lost and that no further hedge reduction, thinning or topping should be allowed.

Development Plan Policies:-

The National Planning Policy Framework (NPPF) March 2012.

Delete reference to PPS1, PPS4, PPS as these have been replaced by the NPPF.

Appraisal:-

A requirement of the NPPF is to assess all pre 2004 development plan policies for consistency with the NPPF and give weight accordingly. In this case this means assessing the Saved Policies of the Adopted Hinckley and Bosworth Local Plan against the requirements of the NPPF. The following is an appraisal of the effect of the NPPF on the proposed development:-

Policy EMP4: Employment Development on Sites other than those Allocated for Employment Uses. The proposal by virtue of its being for commercial purposes is economic development and will therefore benefit the wider economy of the immediate area and the borough. The site for the reasons discussed above and also later in this report is considered to be located within a sustainable location with good transport connections and therefore the proposal as a whole, notwithstanding the other planning issues is a form of sustainable economic development in accordance with the principles of the NPPF.

Policy BE1 - 'Design and Siting of Development' criteria a – i of this Policy are considered to be consistent with the NPPF and as such the policy remains a relevant consideration for this application and significant weight can be apportioned to it. Criteria j is not considered to be consistent because it implies a presumption in favour of comprehensive development of a larger area and this is not consistent with the application of principles of sustainable development in the context of the NPPF.

Policy T5 - 'Highway Design and Vehicle Parking Standards' is considered consistent with the NPPF and as such the policy remains a relevant consideration for this application.

Policy BE7 – 'Development in Conservation Areas' is considered consistent with the NPPF and as such the policy remains a relevant consideration for this application.

Policy REC6 - 'Ashby Canal Corridor' is considered consistent with the NPPF and as such the policy remains a relevant consideration for this application.

The issues raised regarding the hedgerow and landscaping have been addressed within the main report. The top soil on the site has been considered by the Council's enforcement team who are satisfied that the soil is as a result of the construction on site.

Recommendation:-

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it is considered characteristic of the surrounding area and would not be detrimental to visual or residential amenity, highway safety and is considered to preserve the character and appearance of the Conservation Area.

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

Hinckley and Bosworth Borough Council Local Plan (2001):- Policies EMP1, BE1, T5, REC6 and BE7.

The following reasons have been amended:-

- 3 To ensure that the development has a satisfactory external appearance to accord with criteria a of policy BE1 and BE7 of the adopted Hinckley and Bosworth Local Plan.
 - 4 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 criteria b and e of policy BE1 and policies BE7 and REC6 of the adopted Hinckley & Bosworth Local Plan.
- 5&6 In the interests of visual amenity, to accord with criteria b and e of policy BE1 and policy BE7 of the adopted Hinckley and Bosworth Local Plan.

ITEM 03

12/00024/FUL

Mrs Sue Smith

Consultations:-

The Director of Environment and Transport (Highways) has considered the application in light of the publication of the National Planning Policy Framework (March 2012) and Planning Policy for Travellers Sites document and confirms that the guidance supports his recommended reason for refusal on highways safety grounds.

Development Plan Policies:-

Delete documents referred to in the National Policy Guidance section and replace with:-

National Planning Policy Framework (March 2012)

Planning Policy for Traveller Sites (March 2012)

Appraisal:-

A requirement of the NPPF is to assess all pre 2004 development plan policies for consistency with the NPPF and give weight accordingly. In this case this means assessing the Saved Policies of the Adopted Hinckley and Bosworth Local Plan against the requirements of the NPPF. The following is an appraisal of the effect of the NPPF on the proposed development:-

Policy BE1 - Design and Siting of Development. Criteria a - i of this policy are consistent with the NPPF and as such the policy should be given weight in consideration for this application.

Policy T5 - 'Highway Design and Vehicle Parking Standards' is consistent with the NPPF and as such the policy should be given weight in consideration for this application

Policy NE5 - Development in the Countryside. Criteria a-c of this policy are in conflict with the NPPF which provides a presumption in favour of sustainable development, however, notwithstanding this, the design criteria i-iv remain generally relevant to development within the countryside and are similar to those contained within Saved policy BE1. As a result this policy affords only limited weight in consideration of the application.

Policy NE14 - Protection of Surface Waters and Groundwater Quality is consistent with the intentions of the NPPF and as such the policy should be given weight in consideration for this application

'Planning Policy for Traveller Sites' replaces Government Circular 01/2006: 'Planning for Gypsy and Traveller Caravan Sites'. It requires local planning authorities to consider the following issues, amongst other relevant matters, when considering applications for such sites:-

- a) existing provision and local need for sites
- b) the availability (or lack) of alternative accommodation
- c) other personal circumstances of the applicant
- d) that the locally specific criteria used to guide the allocation of sites in plans should be used to assess applications that may come forward on unallocated sites
- e) that they should determine applications for sites from any travellers and not just those with local connections.

The need for additional pitches within the Borough and lack of alternative accommodation is outlined in the main report and supported by the consultation response from the Director of Property Services (Traveller Sites and Liaison). The applicant occupies and operates an existing unauthorised site adjacent to the application site such that it would effectively form an extension to the existing site.

In considering the personal circumstances of the applicant and the requirements of Policy 18 it is important to note that there is no criterion within Policy 18 that requires the needs and circumstances of the applicants to be considered. In addition the policy makes reference to the Council's commitment to provide residential and transit site gypsy pitches within the context of the policy's criterion and as such implies a presumption in favour of such development. The current proposal generally satisfies the policy's requirements for the reasons set out in the main agenda report. Accordingly, further interrogation of the applicants and occupiers personal circumstances is not considered to be necessary because of the policy presumption in favour of development where the criterion are satisfied.

The guidance contained in the document is generally consistent with the local requirements of Policy 18 of the adopted Core Strategy against which the application has been appraised in the main agenda report.

In paragraph 24 it requires local planning authorities to attach weight to the following matters:-

- a) effective use of previously developed (brownfield), untidy or derelict land
- b) sites being well planned or soft landscaped in such a way as to positively enhance the environment
- c) promote opportunities for healthy lifestyles such as providing adequate play areas for children
- d) not enclosing the site with hard landscaping to isolate the occupants from the rest of the community.

Whilst the application site is not brownfield, untidy or derelict it offers the opportunity for a natural extension to the existing unauthorised site. The proposals provide a layout that offers additional hard and soft landscaping measures to compliment the existing mature landscaping around the site and adequate play areas for children. In this case, the site is not adjacent to any other residential development. In summary it is considered that the proposal is in general conformity with the overarching principals of 'Planning Policy for Traveller Sites'.

The Director of Environment and Transport (Highways) has reconsidered the application against the guidance contained in the NPPF and 'Planning Policy for Traveller Sites' and has confirmed that the reason for refusal on highway safety grounds is still recommended. As highway safety is not specifically referred to in the latest guidance document, Policy T5 and the current 6 C's highway design guidance forms the policy background for justification of refusal of the application in this case.

Recommendation:-

Delete reason for refusal and replace with:-

In the opinion of the Local Planning Authority, the proposal would result in an unacceptable increase in traffic turning onto or off a Class II road in an area remote from main development and where traffic speeds are generally high. Such an increase would not be in the best interests of highway safety and is therefore contrary to paragraph 32 of the National Planning Policy Framework and Saved Policy T5 of the adopted Hinckley & Bosworth Local Plan and Policy 18 of the adopted Local Development Framework Core Strategy.

ITEM 04

12/00099/FUL

Mr Kevin Thorpe

Introduction:-

The agent has written to Councillors to advise that the application has been recommended for approval subject to conditions and accordingly neither he nor the applicants propose to lengthen the meeting by addressing Members. The agent notes that an objector has raised issues such as highway safety, the need and commercial case for another farm shop, and the wider viability and size of the farm supplying the shop. The agent draws attention to the County Council highway response which concludes that subject to conditions the access is safe and there is no highway objection. He further indicates that the matter of commercial need/viability/competition raised by the operator of another farm shop is not a planning matter, nor is the size of farm on which the shop is situated, and so these are not issues that he hopes Members consider they need to debate.

Consultations:-

An objection has been received from the owner of a nearby farm shop, raising the following concerns:-

- a) Visibility and highway safety - the objector considers it virtually impossible to predict the number of vehicle movements as the premises grow
- b) Goods being sold - concerned that permission for a farm shop would allow a wide variety of goods, including those bought in, and it will be almost impossible for the Council to monitor this if conditions are applied due to the resources required and the financial constraints
- c) Need for another farm shop in the area - the objector's premises have been open since 2005 and have now seen many more shops and unofficial farm gate sellers. There is only so much business available and the area is already fully saturated, putting pressure on existing businesses
- d) Doubts the basis of the highways recommendations

- e) Questions the size of the site and considers that the applicant only has around 4.5 acres
- f) Disregard for the planning system and not going through the correct channels.

Development Plan Policies:-

The National Planning Policy Framework (NPPF) March 2012.

Delete reference to PPS1, PPS4, PPS7, PPS9, the National Planning Policy Framework (Draft) July 2011 and Leicestershire County Council document 'Highways, Transportation and Development'.

Appraisal:-

A requirement of the NPPF is to assess all pre 2004 policies for consistency with the NPPF and give weight accordingly. In this case this means assessing the Saved Policies of the Adopted Hinckley and Bosworth Local Plan against the requirements of the NPPF. The following is an appraisal of the effect of the NPPF on the proposed development:-

Policy BE1 - Design and Siting of Development. This Policy is considered to be highly consistent with the NPPF. The NPPF does not appear to support part "j" which relates to comprehensive development of larger sites. Part "j" is not relevant to this application but the over-arching principles of Policy BE1 as defined by parts "a" to "i" remain relevant considerations for this application.

Policy BE7 - Development in Conservation Areas. This Policy is considered to be consistent with the NPPF which seeks to sustain and enhance the asset and requires an assessment of the significance of the asset, including the setting. In respect of the proposals for Spinney Bank Farm, the proposals are not considered to have a harmful impact on the Canal Conservation Area and the consideration within the officer's report is still considered relevant.

Policy NE5 - Development in the Countryside. This Policy has limited consistency with the NPPF. The NPPF recognises the intrinsic character and beauty of the countryside and supporting thriving rural communities within it. It is considered that the proposals for a farm shop are in accordance with the NPPF which supports the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings. It is further supported by the NPPF in its aim to promote the development and diversification of agricultural and other land-based businesses.

Policy NE12 - Landscaping Schemes. The NPPF seeks to conserve and enhance the natural environment. The requirement for improvement to boundary landscaping is still, therefore recommended as a requirement by condition.

REC6 - Ashby Canal Corridor. The NPPF seeks to protect and enhance public rights of way and access. It further states that the planning system should protect and enhance valued landscapes. Policy REC6 is considered to be highly compliant with the NPPF and a relevant consideration for this application.

Policy T5 - Highway design and vehicle parking standards. There is no conflict between the NPPF and Policy T5. The assessment of these proposals against Policy T5 is still considered relevant.

The applicant's agent has requested a revision to Conditions 2 and 9 to enable the planting to tie in with the nesting and planting seasons. The agent has further queried the basis of 15% (Condition 5) for imported goods as they consider this to be arbitrary. Clarification has been provided to the agent in respect of Condition 5 which seeks to retain the ancillary nature of the farm shop and prevent over-intensification due to highway safety concerns. The agent was also advised that 15% is consistent with conditions on other farm shops in the Borough and the condition is still recommended by officers.

The applicant was invited to indicate reasonable timescales for implementation of the planting scheme but no details have been submitted.

Recommendation:-

Amended recordation to read:-

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, according to their degree of consistency with the National Planning Policy Framework 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 a result of the siting, design, scale and appearance of the farm shop and associated surfacing works it would not have a significant adverse impact on the character or appearance of the countryside, Conservation Area, biodiversity or highway safety.

Hinckley and Bosworth Borough Council Local Plan (2001):- Policies BE1, BE7, NE5, NE7, NE12 and T5.

ITEM 05**12/00154/FUL****Mr John Deakin****Consultations:-**

No objections subject to conditions in respect of surface water drainage and ground contamination relating to protection of ground water has been received from the Environment Agency. The agency also confirms that no impounding or abstraction licences are required in this instance.

One additional neighbour letter received objecting on similar grounds to those reported in the main agenda and in addition, the possibility of imposing conditions relating to hours of operation during construction.

Development Plan Policies:-

The National Planning Policy Framework (NPPF) March 2012.

Delete reference to PPS1, PPS3, PPS5, PPS9, PPG13, PPS25, the National Planning Policy Framework (Draft) July 2011 and Government Circular 05/2005.

Appraisal:-

A requirement of the NPPF is to assess all pre 2004 development plan policies for consistency with the NPPF and give weight accordingly. In this case this means assessing the Saved Policies of the Adopted Hinckley and Bosworth Local Plan against the requirements of the NPPF. The following is an appraisal of the effect of the NPPF on the proposed development:-

Policy RES5 - 'Residential Proposals on Unallocated Sites' has limited weight in respect of its consistency with the NPPF. The NPPF encourages the use of Brownfield land and developments of high quality design, whereas the local plan encourages sites within settlement boundaries and suggests that in terms of design, proposals should be compliant with policy BE1 of the Local Plan. Accordingly, policy RES5 has limited weight in this instance.

Policy BE1 - Design and Siting of Development. Criteria a - i of this policy are consistent with the NPPF and as such the policy should be given weight in consideration for this application.

Policy BE16 - Archaeological Investigation and Recording is consistent with the intentions of the NPPF and as such the policy should be given weight in consideration for this application.

Policy NE2 - Pollution is consistent with the intentions of the NPPF and as such the policy should be given weight in consideration for this application.

Policy NE5 - Development in the Countryside. Criteria a-c of this policy are in conflict with the NPPF which provides a presumption in favour of sustainable development, however, notwithstanding this, the

design criteria i-iv remain generally relevant to development within the countryside and are similar to those requirements of Saved Policy BE1. As a result this policy should be given only limited weight in consideration of the application.

Policy NE12 - Landscaping Schemes is consistent with the intentions of the NPPF and as such the policy should be given weight in consideration for this application.

Policy NE14 - Protection of Surface Waters and Groundwater Quality is consistent with the intentions of the NPPF and as such the policy should be given weight in consideration for this application.

Policy T5 - 'Highway Design and Vehicle Parking Standards' is consistent with the NPPF and as such the policy should be given weight in consideration for this application.

Policy IMP1 - Contributions Towards the Provision of Infrastructure and Facilities. This policy is consistent with the intentions of the NPPF and as such the policy should be given weight in consideration for this application.

Policy REC2 - New Residential Development - Outdoor Open Space Provision for Formal Recreation. This policy is consistent with the intentions of the NPPF and as such the policy should be given weight in consideration for this application.

Policy REC3 - New Residential Development - Outdoor Play Space for Children. This policy is consistent with the intentions of the NPPF and as such the policy should be given weight in consideration for this application.

Counsel's opinion has been sought in respect of the impact of the National Planning Policy Framework (NPPF) and the ability to defend a reason for refusal of planning permission at appeal. Counsel's opinion has been circulated to members separately.

Flood Risk and Impact on Controlled Waters

The Environment Agency has confirmed that it has no objection to the proposed development but requires the submission of a surface water drainage scheme for the site to prevent the increased risk of flooding, to improve and protect water quality and improve habitat and amenity. The scheme can be secured by the imposition of a condition.

Ground Investigation

In addition, the Environment Agency recommend a condition in respect of any contamination not previously identified being found during development and the requirement for the submission of an amended remediation strategy.

No conditions in respect of the hours of operation during construction were imposed by the Inspector in his appeal decision.

Recommendation:-

Delete justification text and replace with:-

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, together with the appeal decision (reference APP/K2420/A/10//2127585) it is considered that subject to compliance with the conditions attached to this permission, the proposed development would provide a significant contribution to the shortfall in the five year housing land supply in the Borough, would use land effectively and efficiently and provide a good quality sustainable development of well designed houses and would not have any significant adverse impacts on the character or appearance of the landscape, residential amenity, highway safety, surface water drainage, land contamination, ecology or archaeology and would contribute to a range of

community infrastructure services and facilities. The proposed development is therefore in accordance with the development plan.

Amend condition 2 to include a detailed list of plans.

Additional Conditions:-

- 19 No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding, to improve and protect water quality, and improve habitat and amenity to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.

- 20 No development shall take place until drainage plans for the disposal of surface water and foul sewage have been submitted and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution to accord with Policy NE14 of the adopted Hinckley and Bosworth Local Plan.

- 21 No development shall take place until a scheme for gas protection measures has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To protect the future occupiers of the site to accord with Policy NE2 of the adopted Hinckley and Bosworth Local Plan.

- 22 No development shall take place until a scheme for the remediation of soils around trial pit 9 (TP9) identified in the submitted Ground Investigation Report has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To protect the future occupiers of the site to accord with Policy NE2 of the adopted Hinckley and Bosworth Local Plan.

- 23 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.

Reason: To ensure the protection of the future occupiers of the site and controlled waters to accord with Policy NE2 and NE14 of the adopted Hinckley and Bosworth Local Plan.

ITEM 06

12/00114/ADV

Adept Care Ltd

Development Plan Policies:-

Delete reference to PPS5 and PPG19 as these have been replaced by the NPPF.

The National Planning Policy Framework (NPPF) March 2012.

Policy BE1 - Design and Siting of Development. Criteria a - i of this Policy are considered to be compliant with the NPPF and as such the policy remains a relevant consideration for this application.

Policy BE11 - Advertisements in Conservation Areas is consistent with the intentions of the NPPF and as such the policy should be given weight in consideration for this application.

Appraisal:-

Additional text to be inserted at the beginning of the appraisal section of the report:

Applications for advertisement consent are considered against the statutory requirements of S.220 of the Town and Country Planning Act 1990 (as amended). The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 confirms that a local planning authority shall exercise its powers under these Regulations in the interests of amenity and public safety, taking into account:

- (a) the provisions of the development plan, so far as they are material; and
- (b) any other relevant factors.

Recommendation:-

Amend reason for refusal to read:

In the opinion of the Local Planning Authority, the proposed advertisement by virtue of its design and siting represents an alien feature within the streetscene to the detriment of the visual amenity of the character and appearance of the Burbage Conservation Area. The proposal is therefore contrary to Statutory Requirements of S.220 of the Town and Country Planning Act 1990 (as amended) and criteria a of Policy BE1 and BE11 of the adopted Hinckley and Bosworth Local Plan and the overarching guidance contained within the National Planning Policy Framework 2012.

ITEM 07

12/00124/FUL

Ms Danielle Sullivan

Consultations:-

No objections have been received from Severn Trent Water Limited.

Five further letters of neighbour representation have been received, these raise the following additional issues:-

- a) loss of shop and associated impacts on village including loss of jobs, loss of meeting place, and that the proposal will have an adverse impact in terms of sustainability
- b) concerns over parking and access issues for adjacent property who is a blue badge holder
- c) the development is contrary to the development plan
- d) under the impression that the shop would be replaced – the facility is still required in the village
- e) shop should be included in any new scheme
- f) the proposal will not benefit locals
- g) concerns over flooding.

Development Plan Policies:-

The National Planning Policy Framework March 2012.

Delete reference to PPS1, PPS3, PPG13, PPG17, PPS23 and PPS25.

Appraisal:-

A requirement of the NPPF is to assess all pre 2004 development plan policies for consistency with the NPPF and give weight accordingly. In this case this means assessing the Saved Policies of the Adopted

Hinckley and Bosworth Local Plan against the requirements of the NPPF. The following is an appraisal of the effect of the NPPF on the proposed development:-

Policy BE1 - Design and Siting of Development. Criteria a – i of this Policy are considered to be compliant with the NPPF and as such the policy remains a relevant consideration for this application.

Policy T5 - 'Highway Design and Vehicle Parking Standards' is considered consistent with the NPPF and as such the policy remains a relevant consideration for this application.

Policy RES5 - 'Residential Proposals on Unallocated Sites' has limited weight in respect of its consistency with the NPPF. The NPPF encourages the use of Brownfield land and developments of high quality design, whereas the local plan encourages sites within settlement boundaries and suggests that in terms of design, proposals should be compliant with policy BE1 of the Local Plan. Accordingly, policy RES5 has limited weight in this instance.

Policy IMP1 - 'Contributions Towards the Provision of Infrastructure and Facilities' this policy is consistent with the intentions of the NPPF.

Policy REC3 - 'New Residential Development - Outdoor Play Space for Children' is consistent with the intentions of the NPPF.

Policy NE14 - 'Protection of Surface Waters and Groundwater Quality' is consistent with the intentions of the NPPF.

Neighbour representations not previously addressed

Concerns have been raised that the loss of the shop will result in a loss of jobs, a meeting place for locals and will adversely affect sustainability. Although the attributes of local facilities such as this are recognised as being beneficial to the local community, and the NPPF promotes the retention and development of local services and community facilities within villages, such as shops, the shop in question has been closed and visually in a state of disrepair for a number of years and thus no longer provides the benefits outlined above. Notwithstanding this, Core Strategy Policy 12 remains supportive of proposals to provide a local village shop.

Concerns have been raised that the proposal will result in parking and access issues for the adjacent property who is a blue badge holder. As mentioned within the main body of the report, there is considered to be adequate parking provision on site. Illegal parking of vehicles on the highway is not a material planning consideration.

It has been mentioned that the development is contrary to the development plan however no detail is provided. The proposals compliance with local planning policies has been discussed above.

Whilst core strategy policy does support the provision of a shop within Sheepy Magna, the application site is not located for retail and is therefore not protected for retail. For the reasons discussed above the likelihood of the shop reopening is uncertain and the current application must be determined on its merits. In the absence of a site allocation, the planning authority cannot require that certain developments be provided or replaced. Within this context it is important to note that the proposal will provide local market housing which will be available to all.

Recommendation:-

Amend reasons for refusal as follows:-

- 1 In the opinion of the Local Planning Authority by virtue its siting, scale, mass and design, the proposal will appear as an alien, incongruous form of development within the street scene to the detriment of the character and visual amenity of the area and thus will be contrary to criteria a, b, e and i of policy BE1 of the adopted Local Plan and to the Supplementary Planning Guidance (SPG): 'New Residential Development' and the overarching guidance contained within the National Planning Policy Framework 2012.

- 2 In the opinion of the Local Planning Authority the architectural features proposed are not considered to be common features on adjacent properties and will result in the development being inconsistent and inappropriate within its setting. Contrary to criteria a, b and e of policy BE1 of the adopted Local Plan and to the Supplementary Planning Guidance (SPG): 'New Residential Development' and the overarching guidance contained within the National Planning Policy Framework 2012.
- 3 In the opinion of the Local Planning Authority the development will have a detrimental impact on the residential amenity of numbers 7 and 17 Main Road Sheepy by way of being over-bearing, over dominant, causing loss of light and having an adverse impacts on their privacy. Accordingly the proposal will be contrary to criteria a and i of policy BE1 of the adopted Local Plan and to the Supplementary Planning Guidance (SPG): 'New Residential Development'.

ITEM 08

12/00184/FUL

Stephen Pritchett

Introduction:-

Due to economic factors and the needs of the enterprise, since the application was received and the main report compiled, the temporary building that is the subject of this application has already been erected. As such the application is now retrospective in nature to regularise the development.

Consultations:-

One neighbour letter has been received raising issue in respect of potential noise and disturbance and traffic/parking issues.

Development Plan Policies:-

Delete reference to PPS1, PPS4, and the National Planning Policy Framework (Draft) July 2011.

The National Planning Policy Framework March 2012.

Appraisal:-

A requirement of the NPPF is to assess all pre 2004 development plan policies for consistency with the NPPF and give weight accordingly. In this case this means assessing the Saved Policies of the Adopted Hinckley and Bosworth Local Plan against the requirements of the NPPF. The following is an appraisal of the effect of the NPPF on the proposed development:-

Policy EMP1: Existing Employment Sites is consistent with the NPPF and as such the policy should be given weight in consideration for this application

Policy EMP2: Expansion of Existing Employment Uses is consistent with the NPPF and as such the policy should be given weight in consideration for this application

Policy BE1: Design and Siting of Development. Criteria a - i of this policy are consistent with the NPPF and as such the policy should be given weight in consideration for this application.

Policy NE2: Pollution is consistent with the intensions of the NPPF and as such the policy should be given weight in consideration for this application.

Policy NE5: Development in the Countryside. Criteria a-c of this policy are in conflict with the NPPF which provides a presumption in favour of sustainable development, however, notwithstanding this, the design criteria i-iv remain generally relevant to development within the countryside. As a result this policy affords only limited weight in consideration of the application.

Policy T5: 'Highway Design and Vehicle Parking Standards' is consistent with the NPPF and as such the policy should be given weight in consideration for this application.

Noise and Disturbance

A neighbour has raised issues in respect of potential noise and disturbance from the use of the building. Given the 24/7 operation of the wider site and the current uses therein, together with the separation distances to the nearest residential properties and the proposed use of the building it is considered that the proposed development is unlikely to result in any material increase in noise or disturbance to that already generated within the wider site that will have any material adverse impact on residential amenity in this case. The Head of Community Services (Pollution) has undertaken visits to the perimeter of the site and has no objections to the application.

Traffic and Parking

The temporary building does not have any impact on the existing parking provision for staff or employees which is located elsewhere within the wider site. The proposal is a temporary solution to a short term operational issue resulting from the launch of a new product and as such will not create permanent additional floor space in the long term that will materially affect the existing parking situation. The delivery schedule operated within the site and the welfare of drivers of HGV's are not material to the determination of this application.

Recommendation:-

Delete justification text and replace with:-

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, 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 be within an existing employment site, used for purposes ancillary to the existing uses and by virtue of its siting, design and appearance would not have any adverse impact on the character or appearance of the site, the surrounding countryside or the amenities of the neighbouring dwellings.

PLANNING COMMITTEE SPEAKERS **3 APRIL 2012**

Item	Application	Speaker(s)	Applicant/objector
01	11/01023/REM	Mr Edwards Mr Deakin	Objector Applicant
02	12/00067/FUL	Mr Penman	Applicant
03	12/00024/FUL	Mr Sprason CC Mr Statham	Objector Agent
04	12/00099/FUL	Mr Tomlinson	Objector
05	12/00154/FUL	Ms Gardner	Agent
06	12/00114/ADV	Mr Leslie	Objector
07	12/00124/FUL	Mrs Allen	On behalf of objectors